



## Town of Green Mountain Falls

### Board of Trustees Meeting Agenda

P.O. Box 524; 10615 Green Mountain Falls Road

Green Mountain Falls, CO 80819

Tuesday, July 20, 2021 at 7:00 p.m.

#### Zoom Meeting Link and Login Info

<https://us02web.zoom.us/j/86980304385?pwd=bnQ2SjVlK0VqUmxLSctVbUhpMjhNZz09>

Zoom meeting ID= 869 8030 4385 Meeting password= 339008 For Dial-in only: 1-346-248-7799

To make a **public comment** please **pre-register** by 4pm on the day of the meeting via email: [clerk@gmfco.us](mailto:clerk@gmfco.us)

#### REGULAR MEETING:

TIME*		ITEM	DESIRED OUTCOME
7:00	1.	CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE	
7:00	2.	ADDITIONS, DELETIONS, OR CORRECTION TO THE AGENDA	
7:05	3.	CONSENT AGENDA <ul style="list-style-type: none"><li>a. Accounts Payable from June 25, 2021 to July 16, 2021</li><li>b. BOT Meeting Minutes from 6/29/2021</li><li>c. Town Manager Contract</li></ul>	<b>BOT Action Desired</b>
7:10	4.	Stilling Basins Project Update	Information Only
7:25	5.	PPRTA New Membership Support: Town of Calhan	<b>BOT Action Desired</b>
7:30	6.	Municipal Code Rewrite Project	<b>BOT Action Desired</b>
8:30	7.	CORRESPONDENCE	Information Only
8:35	8.	REPORTS <ul style="list-style-type: none"><li>a) Trustee Reports</li><li>b) Committee Reports<ul style="list-style-type: none"><li>a. FMAC Update</li></ul></li><li>c) Staff Reports</li></ul>	Information Only
8:50	9.	PERSONS PRESENT NOT ON THE AGENDA: 3 MINUTES PER SPEAKER	
9:00	10.	ADJOURN	
	11.	WORK SESSION <ul style="list-style-type: none"><li>a. BOT Vacancy Interviews</li></ul>	Discussion

\*Please note: Times are approximate.

\*\*The Town shall provide reasonable accommodation for those with disabilities on a case by case basis. Please send accommodation requests to [clerk@gmfco.us](mailto:clerk@gmfco.us) by 4pm on the date of the meeting.

**Town of Green Mountain Falls  
Vendor Invoices Journal  
from June 25, 2021 to July 16, 2021**

<u>Date</u>	<u>Reference</u>	<u>Entity Number</u>	<u>Name</u>	<u>Acct Number</u>	<u>Acct Name</u>	<u>Total</u>
1-00-00-2000 General-Accounts Payable						
06/30/2021	019	wilsonwllli0000	Wilson Williams LLP	1-20-02-5114	General-Interdepartmental-Operations-Services - Town Attorney	1968.75
06/30/2021	12057	COSpringGaz	Colorado Springs Gazette, LLC	1-10-02-5118	General-Administration-Operations-Publications - Legal Notices	25.97
06/30/2021	5	Hoffman	Hoffman, Parker, Wilson & Carberry	1-20-02-5114	General-Interdepartmental-Operations-Services - Town Attorney	5070.32
06/30/2021	54	Hoffman	Hoffman, Parker, Wilson & Carberry	1-20-02-5114	General-Interdepartmental-Operations-Services - Town Attorney	2447.63
07/01/2021	07012021	brianbundy0000	Brian Bundy	1-10-02-5113	General-Administration-Operations-Services - Professional	2000
07/01/2021	81138	chiefpetroleum	Chief Petroleum	1-70-02-5128	General-Public Works-Operations-Supplies - Fuel	1164.6
07/01/2021	9843422016	COSpringUtil	Colorado Springs Utilities	1-60-03-5207	General-Pool-Utilities-Utilities - Water	133.7
07/14/2021	Gazebo Rental	tracywhite0000	Tracy White	1-10-00-4401	General-Administration-Gazebo - Rentals	50
07/14/2021	OTF 38	chasphaltma0000	C&H Asphalt Maintenance	1-00-00-1300	General-Prepaid Expenses	550
Total For 1-00-00-2000 General-Accounts Payable						<u>13410.97</u>

\_\_\_\_\_  
Jane Newberry, Mayor

\_\_\_\_\_  
Angie Sprang, Town Manager

**TOWN OF GREEN MOUNTAIN FALLS**  
**Regular Board of Trustee Meeting**  
**June 29, 2021 – 7:00 P.M.**  
**MEETING MINUTES**

**Board Members Present**

Mayor Jane Newberry  
Trustee Margaret Peterson  
Trustee Katharine Guthrie

**Town Manager**

Angie Sprang

**Town Clerk**

Matt Gordon

**Administrative Assistant**

Not present

**Board Members Absent**

Trustee Chris Quinn

**Town Attorney**

Not present

**Public Works**

Not present

**Marshal's Dept.**

Virgil Hodges

**Planning Director**

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**1. Call to Order/Roll Call/Pledge of Allegiance**

Mayor Newberry called the meeting to order at 7:03pm.

**2. Additions, Deletions, or Corrections to the Agenda**

Trustee Peterson moved to approve the agenda. Seconded by Trustee Guthrie. Motion passed unanimously.

**3. Consent Agenda**

Mayor Newberry moved to approve. Seconded Trustee Guthrie. Motion passed unanimously.

**4. PPRTA Citizen Advisory Committee Appointment: Craig Gooding**

Trustee Peterson moved to approve. Seconded by Trustee Guthrie. Motion passed unanimously.

**5. BOT Seat Vacancy and Trustee Dyani Loo Resignation**

Members discussed the vacant seat and clerk provided clarity on the appointment process.

**6. Correspondence**

**7. Reports**

Trustee Peterson reported on the managed parking program and provided a timeline of the project. Peterson also discussed the expedited quickness with which Interstate has worked with Bronc Day.

Trustee Guthrie reported that business owners had concerns for how performers could validate their paid parking. Town Manager Sprang provided answers regarding Interstate willingness to work with business owners to validate parking. BOT requested clarification on how free parking is done for residents and whether they must use a kiosk or smartphone to register their car before they park or not for that spot and issues with cell phone reception.

Mayor Newberry reported on correspondence shared with the BOT from Resident Rocco Blasi and provided some historical context for the value of the current Town Manager form of government, PRT goose mitigation, and tasking the PRT Committee with identifying volunteers for park clean up

David Douglas provided an update on FMC activities including mitigation work, the creation of maps to grade areas with fire risk and areas that have already remediated fuels on public and private property.

Town Manager Sprang provided update on the current roads maintenance schedule and issues in getting road maintenance completed and the hiring of a new Public Works employee.

Town Clerk Gordon provided clarification on the appointment process, the use of Zoom at meetings, and the plan not to open the pool for the 2021 summer season.

BOT requested that Town Staff investigate well drilling costs for the pool, cost to improve septic system at the pool to open it to the public and ADA compliance, promote pool for private parties for additional revenue streams.

Town Marshal reported on comments received from the public and provided clarification on comments he has shared regarding Managed Parking.

Planning Commission Chair Dixon provided information in relation to septic systems at older homes in Town.

#### **8. Persons Not Present on the Agenda**

Resident and Trail Ambassador Volunteer Coordinator Dixon provided an update on the Trail Ambassador Program in GMF.

Recess held before the Executive Session.

#### **9. Executive Session: Pursuant to C.R.S § 24-6-402(e) for The Purpose of Matters That May be Subject to Negotiations, Developing Strategy for Negotiations, and/or Instructing Negotiators - Town Manager Contract**

#### **10. ADJOURNMENT**

The meeting adjourned at 9:10 pm.

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Matt Gordon, Town Clerk/Treasurer

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Jane Newberry, Town Mayor

## **EMPLOYMENT AGREEMENT**

THIS AGREEMENT is made and entered into this 1st day of August, 2021, by and between the Town of Green Mountain Falls, a Colorado statutory town (the "Town"), and Patricia Angeline Sprang ("Manager"), an individual.

WHEREAS, the Town Board of the Town of Green Mountain Falls (the "Town Board") wishes to employ the services of Manager as Town Manager of the Town pursuant to Article IV Section 2-81 of the Green Mountain Falls Municipal Code;

WHEREAS, the Manager is a person with the necessary education, background, and experience to provide services to the Employer as the Town Manager and who, as a member of the International City Manager Association ("ICMA"), is and shall remain subject to the ICMA Code of Ethics;

WHEREAS, the Town Board wishes to provide certain benefits, establish certain conditions of employment and set working conditions for the Town Manager; and

WHEREAS, Manager wishes to accept employment as the Town Manager of the Town under the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Duties. The Town agrees to employ Manager as Town Manager of the Town of Green Mountain Falls, Colorado, beginning on the 1<sup>st</sup> day of August, 2021 (the "Effective Date"). As Town Manager, Manager is the Chief Executive Officer and shall perform the duties described in the attached job description, the ordinances of the Town, and such other legally permissible and proper duties and functions as the Town Board shall from time-to-time assign. This shall be a full-time occupation.

a. Although Manager shall be an employee of the Town, Manager shall not be subject to the Town's personnel manual, except for the determination and payment of benefits as set forth in Section 4 hereof. During the term of this Agreement, Manager agrees to remain in the exclusive employ of the Town and neither to accept nor to become employed by any other employer. The term "employed" shall not be construed to include occasional teaching, writing, or consulting, that does not present a conflict of interest, performed on Manager's time off.

2. Term. The term of this Agreement shall be for an initial period of one (1) year from the effective date. This Agreement shall automatically be renewed on its anniversary date for an additional one (1) year term unless notice that the Agreement shall terminate is given to the Manager at least six (6) months in advance. However, nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Town Board to terminate the services of Manager at any time for any reason, subject only to the provisions set forth in Section 5 hereof; and nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Manager to resign at any time from this position with the Town for any reason, subject only to the provisions set forth in Section 5 hereof.

3. Salary. The salary to be paid to Manager for services as Town Manager shall be \$85,101.57 annually ("Base Salary"), which shall be paid periodically in the same manner as other employees of the Town are paid. A minimum 5% cost of living increase (COLA) increase will be added to the Manager's salary on January 1<sup>st</sup> each year. Manager shall be eligible for additional annual salary increases at the Town Board's sole discretion based upon the Town Board's assessment of Manager's performance. Such assessments and salary increased may be considered at any intervals within this contract determined by mutual agreement. This Agreement will be automatically amended to reflect any salary adjustments made in this manner.

4. Benefits. In addition to the Base Salary, Manager shall receive the following benefits during employment as Town Manager:

a. Insurance. To the extent provided under the Town's benefit package, health, life, vision and dental insurance premiums shall be paid by the Town for Manager and Manager's dependents in the same manner as for all other employees of the Town.

b. Disability. To the extent provided under the Town's benefit package, the Town shall pay any disability benefits for Manager and dependents in the same manner as for all other employees of the Town.

c. Paid Time Off (PTO) and Holidays. Manager shall be entitled to PTO leave, holidays, and any other leave benefits in the same manner as all other full-time employees of the Town, except:

a. Manager shall continue with current leave balances in full, and then be subject to the earning accrual schedule for regular employees after year five (5). Leave is accrued with each pay period starting with the first pay cycle.

b. Manager's leave balances will pay out in full upon the Manager's separation from the Town.

d. Retirement. Manager shall be entitled to retirement benefits in the same manner as all other full-time employees of the Town. At this time the Town offers no retirement benefits to its employees. The 2.5% annual salary contribution provided for in the Town Manager's previous 2-year contract shall be paid out in full to Town Manager upon execution of this Agreement, and the Town Manager shall receive additional payments of 2.5% as part of her regular salary to be paid at each pay period until the Town establishes a retirement plan for its employees; at which time, the Town shall contribute to Manager's retirement account the same amount offered to other full-time employees. If the Town's contributions to Manager's retirement account is less than 2.5% of Manager's regular salary, the Town shall pay the difference to Manager as part of her regular salary without adjustment for any tax consequences (for example, if the Town contributes 1% to Manager's retirement account, the Town shall pay to Manager an additional amount equal to 1.5% of Manager's regular salary at each pay period).

e. Other. Manager shall be entitled to any other leave or financial benefits provided to other employees on an equal basis as contained in the Town Personnel Manual, as it may be amended from time-to-time.

5. Severance. Except as otherwise provided in this section, if Manager is terminated by the Town Board during such time that Manager is willing and able to perform the duties of the Town Manager, the Town agrees to pay Manager a lump-sum severance payment equal to three (6) months continuation of cobra and (6) months of the Base Salary being paid to Manager by the Town at the time of termination. The severance payment described herein shall be a one-time payment and is not intended to be an extension of employment. For each two (2) years of service an additional one (1) month of severance will be added to the severance payment. Nothing in subsection (a) is intended to alter Managers' leave rights under the Family Medical Leave Act (FMLA).

a. If Manager is terminated based on conviction for a criminal act other than a misdemeanor traffic offense or petty offense, or for conduct constituting gross negligence, the Town has no obligation to pay the severance payment.

b. If Manager voluntarily resigns the position as Town Manager or Manager is unable to perform the job duties, Manager shall not be entitled to the severance payment.

c. In the event the Manager dies while in office, the designated beneficiary will receive full payment of all accumulated vacation and accumulated sick leave. The designated beneficiary is: Macalister Jon Schumacher – Sprang, DOB 02-07-2004, Manager's eldest son.

d. Manager's employment shall be deemed to have been terminated at Manager's option and Manager shall be entitled to severance as set forth in this Section 5 if any of the following events occur:

i. Manager' salary or other financial benefits are reduced;

ii. The Town fails to provide Manager with a benefit set forth herein, after the Town's receipt of written notice from Manager of such failure and a reasonable time to cure.

6. Hours of Work. It is recognized that the Town Manager must devote a great deal of time outside of normal office hours to the business of the Town as the Manager deems necessary. Manager shall be considered an exempt employee for purposes of the Fair Labor Standards Act and shall not be entitled to overtime.

7. Professional Development. Subject to such amounts as may be budgeted, the Town, in its sole discretion, shall pay for expenses related to Manager' continuing professional development, which includes attendance at various national or state conferences, seminars, and continuing education programs. The Town shall reimburse Manager' expenses for other reasonable memberships, registration, travel, meals or lodging in association with business-

related conferences, education or other meetings, according to approved accounts in each annual budget. In addition,

a. The Town Manager shall receive \$3,500 for participation in the Arizona State University Certified Public Manager (CPM) program to be paid for directly to the educational vendor by the Town. The Town Board agrees that this program will be beneficial for the Managers' professional development.

8. Performance Evaluations. The Council shall provide Manager with a written performance evaluation at least once every twelve (12) months. Manager shall file a timely written response to each performance evaluation. Following such response, the Council and Manager shall meet in executive session, in compliance with the Colorado Open Meetings Law, C.R.S. § 24-6-401, *et seq.*, to discuss the performance evaluation. Manager hereby waives any right he may have to have such performance evaluations discussed in public under C.R.S. § 24-6-402(4)(f).

9. Defense & Indemnification of the Town Manager. Beyond that required under Federal, State or Local Law, Town shall defend, save harmless and indemnify Town Manager against any obligation to pay money or perform or not perform action, including without limitation, any and all losses, damages, judgments, interests, settlements, penalties, fines, court costs, and any other reasonable costs and expenses of legal proceedings including attorneys' fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Town Manager's duties, as Town Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Town Manager may request that the Town shall not unreasonably refuse to provide independent representation at the Town's expense and Town may not unreasonably withhold approval.

10. Bonding. The Town shall bear the full cost of any fidelity or other bonds required of the Town Manager under the law or Town ordinances.

11. Disability. If Manager is unable to perform these duties for a period of twelve (12) consecutive weeks due to a disability and cannot be reasonably accommodated, the Town shall have the option to terminate this Agreement subject to the provisions of Section 5.

12. Miscellaneous.

a. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in El Paso County, Colorado.

b. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.



c. Integration. This Agreement constitutes the entire Agreement between Manager and the Town, superseding all prior oral or written communications.

d. Third Parties. Except as set forth in Section 5(c), there are no intended third-party beneficiaries to this Agreement.

e. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

f. Modification. This Agreement may only be modified upon written agreement of the parties.

g. Assignment. Neither this Agreement nor any of the rights or obligations of the parties hereto shall be assigned by either party.

h. Governmental Immunity. The Town, its officers and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, or otherwise available to the Town and its officers or employees.

i. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, and thus any obligations of the Town hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year. The failure of the Town Board to appropriate for Manager's compensation due under this Agreement shall constitute termination of Manager's employment as Town Manager, effective January 1<sup>st</sup> of the following year (the year for which funds have not been appropriated), and the provisions of Section 5 shall apply to such termination.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

**TOWN OF GREEN MOUNTAIN FALLS, COLORADO**

\_\_\_\_\_  
Jane Newberry, Mayor

ATTEST:

\_\_\_\_\_  
Matt Gordon, Town Clerk & Treasurer

\_\_\_\_\_  
Patricia A. Sprang, Town Manager

STATE OF COLORADO )

COUNTY OF \_\_\_\_\_ ) ss.  
\_\_\_\_\_ )

The foregoing Professional Agreement for Services was subscribed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires:

(S E A L)

\_\_\_\_\_  
Notary Public

## **OWNER-ENGINEER AGREEMENT**

THIS AGREEMENT is made this 16th day of July, 2021, by and between Town of Green Mountain Falls, Colorado (hereafter "Owner"), and Wilson & Company, Inc., Engineers & Architects (hereafter "Engineer"), to perform professional engineering services as described herein. Therefore, for valuable consideration as set forth herein, the Owner and Engineer agree as set forth below.

PROJECT: Stilling/Sedimentation Basin Improvements: Green Mountain Falls Lake

ENGINEER'S SCOPE OF SERVICES: (hereafter referred to as "Services") are generally described as follows, as more fully set out in Engineer's Proposal dated July 1, 2021, attached hereto as Exhibit A and incorporated herein by reference:

Engineering design and construction plan production for two stilling/sedimentation basins.

### **Terms and Conditions**

#### **ARTICLE 1 - GENERAL**

- 1.1 Owner employs Engineer as an independent contractor, to perform the Services described herein. The Engineer agrees to accept responsibility for the proper conduct of Engineer's Services performed under this Agreement, whether performed by Engineer's employees or subconsultants. Engineer shall not subcontract any portion of its work without prior written approval of Owner. Owner approves of the subconsultants identified in the attached Exhibit B.
- 1.2 To the extent required by law, all final documents prepared by Engineer or its subconsultants shall be sealed by a professional licensed in the state the Project is located.
- 1.3 The Engineer shall designate a representative authorized to act in the Engineer's behalf. Engineer reserves the right to change representatives as necessary due to availability.
- 1.4 The Engineer shall attend necessary meetings with Owner related to the Services. Engineer's base fee includes 5 such meetings, not to exceed 1 hours each. Meetings in excess of those budgeted shall be considered and reimbursed as Additional Services.
- 1.5 The Engineer shall recommend to the Owner the obtaining of such investigations, surveys, tests, analyses and reports as may be necessary for the proper execution of the Engineer's Services.
- 1.6 If the Scope of Services requires Engineer to provide Opinions of Probable Construction Cost, Owner acknowledges that the Engineer has no control over the cost of labor, material or equipment, or over Contractor's methods of determining prices, or over competitive bidding or market conditions. The opinions of construction costs provided for herein are to be made on the basis of Engineer's experience and qualifications and represent Engineer's reasonable judgment as a design professional familiar with the

construction industry. Engineer cannot, and does not, guarantee that the bids or the project construction costs will not vary from the Opinions of Probable Construction Cost prepared by the Engineer. If Owner desires more accurate information on Project cost, it shall independently retain the services of a construction estimator.

- 1.7 The Engineer represents that it is authorized to practice engineering in the state in which the Project is located.

## **ARTICLE 2 - ENGINEER'S OBLIGATIONS**

- 2.1 Engineer agrees to perform its Services in accordance with the standard of care set out in Article 5.1. Unless otherwise provided herein, Engineer agrees to furnish all materials, supplies, tools, equipment, supervision, labor, drawings and anything else necessary to fully perform all of the Services described herein.
- 2.2 The Engineer shall (a) cooperate with the Owner and all other consultants or contractors whose work may relate to the Engineer's Services; and (b) specifically note and promptly advise the Owner of any interference with the Engineer's Services.
- 2.3 **DESIGN PHASE**
  - 2.3.1 Based on the project requirements provided by Owner, the Engineer shall complete conceptual studies, preliminary and/or final designs for approval by Owner. These shall consist of drawings, specifications and other documents to achieve the Owner's goals for the Project, including materials, equipment, component systems and types of construction.
- 2.4 **CONSTRUCTION DOCUMENTS PHASE**
  - 2.4.1 When authorized by the Owner, the Engineer shall prepare final Drawings and Specifications setting forth in detail the requirements for the construction of the Project, for approval by the Owner.
  - 2.4.2 The Engineer shall assist the Owner as necessary in connection with the Owner's responsibility for filing the documents concerning the Project required for the approval of governmental authorities having jurisdiction over the Project.
  - 2.4.3 When authorized by the Owner, the Engineer shall prepare for, coordinate with, participate in and respond to structured independent review processes, including, but not limited to, value engineering services and perform or furnish services required to revise studies, reports, final Drawings and Specifications or other applicable documents as a result of such review processes; PROVIDED, HOWEVER, Engineer shall not be required to perform or furnish services, or revise any study, report, final Drawings and Specifications or other applicable document that Engineer, in its professional judgment, would require Engineer to violate its standard of care or any other professional obligation.

## 2.5 BIDDING OR NEGOTIATION PHASE

- 2.5.1 If required by the Owner, the Engineer shall assist the Owner in obtaining and evaluating bids or negotiated proposals, and in awarding and preparing contracts for construction.
- 2.5.2 The Engineer shall prepare Addenda Documents, interpret Bid Documents and assist the Owner as required with questions from bidders. When required as part of the Bidding Phase, Engineer shall assist Owner in conducting a pre-bid conference.

## 2.6 CONSTRUCTION PHASE

- 2.6.1 The Construction Phase will commence with the award of the Contract for Construction and, together with the Engineer's obligation to provide Basic Services under this Agreement, will terminate when final payment to the Contractor is due or, in the absence of a final Certificate for Payment or of such due date, sixty (60) days after the date Engineer certifies as Substantial Completion of the Work, whichever occurs first.
- 2.6.2 Unless otherwise provided in this Agreement and incorporated in the Contract Documents, the Engineer shall assist the Owner in the Administration of the Contract for Construction as set forth below and the General Conditions of the Contract for Construction, which are subject to Engineer's approval and must be consistent with this Agreement.
- 2.6.3 The Engineer shall at all times have access to the Work wherever it is in preparation or progress. The Engineer shall visit the site at intervals appropriate to the stage of construction, or as set out in the Scope of Services, Exhibit A, to become generally familiar with the progress and quality of the Work and to determine in general if such Work is proceeding in accordance with the Contract Documents. However, the Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of such on-site observations, the Engineer shall keep the Owner informed of the progress and quality of the Work and shall endeavor to guard the Owner against defects and deficiencies in such Work of the Contractor.
- 2.6.4 The Engineer shall not have control or charge of and shall not be responsible for, construction means, methods, techniques, sequences or procedures, for safety precautions and programs in connection with the Work, for the acts or omissions of the Contractor, Subcontractors or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents. Nothing in this Agreement shall be construed as making Engineer a Controlling Employer as defined by OSHA for purposes of site safety.
- 2.6.5 The Engineer, based on observations at the site and on evaluations of the Contractor's Applications for Payment, shall assist the Owner in determining the amounts owing to the Contractor and shall certify such amounts to the Owner. Such certification shall not expand Engineer's duties and is made for the sole benefit of the Owner and is not intended to be relied upon by others.

- 2.6.6 Certification by the Engineer to the Owner of an amount owing to the Contractor shall constitute a representation by the Engineer to the Owner that, based on the Engineer's observations at the site and the data comprising the Contractor's Application for Payment, the Work has progressed to the point indicated; that to the best of the Engineer's knowledge, information and belief, the quality of such Work is in accordance with the Contract Documents (subject to an evaluation of such Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated by the Engineer); and that the Contractor is entitled to payment in the amount certified.
- 2.6.7 Upon written request of the Owner, the Engineer shall furnish to the Owner, with reasonable promptness, written interpretations of the Contract Documents prepared by the Engineer.
- 2.6.8 The Engineer shall render written recommendations, within reasonable time, on all claims, disputes and other matters in question between the Owner and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents. The Engineer shall not be liable for decisions made in good faith in this role of neutral.
- 2.6.9 The Engineer shall assist the Owner in determining whether the Owner shall reject Work which does not conform to the Contract Documents or whether special inspection or testing is required.
- 2.6.10 The Engineer shall review and approve, or take appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- 2.6.11 The Engineer shall assist the Owner in preparing Change Orders for the Owner's approval and execution in accordance with the Contract Documents. The Engineer shall recommend to the Owner minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.
- 2.6.12 The Engineer shall assist the Owner in conducting one (1) inspection to determine the date of Substantial Completion and one (1) inspection to determine the date of Final Completion and shall review and approve, or take other appropriate action on, the Contractor's list of items to be completed or corrected and shall forward the list to the Owner for final disposition.

2.6.13 The Engineer shall assist the Owner in receiving and forwarding to the Owner for the Owner's review written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Engineer shall issue to the Owner a final certificate in writing with respect to final payment.

## 2.7 TIME

2.7.1 The Engineer shall commence its Services within five (5) working days of written Notice to Proceed from the Owner and if such Services are interrupted for any reason, the Engineer shall resume such Services within five (5) working days from the Owner's notice to do so.

2.7.2 The Engineer shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Upon request of the Owner, the Engineer shall submit, for the Owner's approval, a schedule for the performance of the Engineer's services which shall be adjusted as required as the Project proceeds, and which shall include allowances for periods of time required for the Owner's and the Owner's review and approval of submissions and for approvals of authorities having jurisdiction over the Project.

2.7.3 The Engineer will exercise due diligence in the performance of its professional services, but due to the nature of the work, the Engineer cannot guarantee a specific timetable for completion of the Contractor's Work. The Owner waives any right to make any claims against the Engineer for any damages or expenses claims as a result of delays in the progress of the Work so long as due diligence has been exercised by the Engineer in accordance with Paragraph 5.1, below.

## ARTICLE 3 - OWNER'S OBLIGATIONS

- 3.1 Designate a representative authorized to act in the Owner's behalf. Owner reserves the right to change representatives as necessary due to availability.
- 3.2 Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- 3.3 Provide Engineer with a program outlining the scope of the Project, the budget and the schedule.
- 3.4 Furnish Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- 3.5 Furnish Engineer with such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services.
- 3.6 With respect to all information Owner is required to provide or furnish Engineer, as set forth above in Paragraphs 3.2 through 3.5 inclusive, or any other information Owner

provides or furnishes to Engineer pertinent to the Project and upon which it is reasonably anticipated Engineer will rely upon, Owner shall notify, in writing, Engineer of all defects, errors, or omissions in such information known by Owner or for which Owner should reasonably have knowledge.

- 3.7 Arrange for right of entry and safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement.
- 3.8 Furnish Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- 3.9 Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- 3.10 The Owner shall provide timely input and responses to Engineer with regard to approvals of designs or other inquiries. If the Owner detects any error or omission in Engineer's designs or documents, Owner shall give prompt notice to Engineer of same so that it may be corrected in a timely manner.
- 3.11 The Owner shall, at the written request of the Engineer, prior to commencement of Engineer's services and thereafter, furnish to the Engineer reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under this Agreement. Furnishing of such evidence shall be a condition precedent to commencement or continuation of the Engineer's services. After such evidence has been furnished, the Owner shall not materially vary such financial arrangements without prior notice to the Engineer.
- 3.12 If the Owner requires that any assembly, system, product item of material, or design be included in the Project without (or against) the Engineer's recommendation, or if the Owner selects a contractor, subcontractor, or material fabricator, or any assembly, system, product or item of material, without (or against) the Engineer's recommendation, the Engineer shall have no responsibility for such decision by the Owner or for the performance of such owner-specified items or persons, nor shall the Engineer be required to issue any opinion or certificate with respect to such items or the work of such persons. The Owner shall indemnify and hold the Engineer harmless from all claims, damages, loss and expense, including reasonable attorney's fees and defense costs incurred as a result of any such decision by the Owner.
- 3.13 In the event that the Owner furnishes the Engineer with documents showing existing conditions, or prior projects or designs for the Engineer's use in connection with the Project, the Owner represents to the Engineer that with regard to any and all such documents and designs, , whether in hard copy or on computer disk format (hereafter collectively referred to as the "documents"), the Owner is the true and legal owner,



licensee or assignee of the copyrights in and to all such documents and grants Engineer a royalty-free license to copy such documents. Owner recognizes that the use of such documents by Engineer will be at Owner's sole risk and without any liability, risk or legal exposure to the Engineer, and Owner therefore agrees that, to the fullest extent permitted by law, the Owner will indemnify, defend and hold harmless the Engineer, its sub-consultants, and their respective officers, directors, employees and agents from and against any claim of copyright infringement, trademark infringement, unfair competition or other related claim or cause of action brought or asserted by any person or entity claiming to be the lawful owner, assignee or author of such documents, or claiming some other right that has allegedly been violated by the Engineer's use of these furnished documents on this Project.

#### **ARTICLE 4 - PAYMENT**

- 4.1 LUMP SUM. If a lump sum, Owner agrees to pay to the Engineer for the performance of the Engineer's Work on a Lump Sum basis the sum of: \$75,000.00.

Such amount shall include all Services necessary to fulfill Engineer's scope of work. The Lump Sum shall include reimbursable expenses described in Paragraph 4.3 unless otherwise stated herein.

- 4.2 OTHER. Where the basis of compensation to Engineer is cost of work plus fee, hourly rates or other method, such terms shall be set forth in Exhibit A, attached hereto.

- 4.3 REIMBURSABLE EXPENSES.

- 4.3.1 Reimbursable Expenses include expenses incurred by the Engineer in the interest of the Project, as follows.

- a. Expenses of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approvals of authorities having jurisdiction over the Project.
- b. Expense of reproductions, postage and handling of drawings, specifications, reports and other documents.
- c. Expense of renderings, models and mock-ups requested by the Owner.
- d. Expense of additional insurance coverage or limits, including professional liability insurance, in excess of the requirements of Article 8.
- e. Reimbursable expenses shall be paid at the direct cost of expenses incurred by the Engineer plus a mark-up of 10%.

- 4.3.2 Lien Waivers, in a form acceptable to Engineer, shall be furnished if requested by Owner after receipt of each progress payment.

- 4.3.3 Applications for intermediate progress payments shall be submitted to Owner in writing and shall state the amount of the Engineer's Services that has been performed and

expenses incurred during the applicable pay period. Such Applications for Payment shall be submitted to the Owner on a four (4) week basis.

- 4.3.4 Payments to the Engineer shall be made within seven (7) days after receipt by the Owner of the Application for Payment. Payment will be credited first to any interest owed to Engineer and then to principal.
- 4.3.5 If Owner fails to make any payment due Engineer for services and expenses within seven (7) days after receipt of Engineer's invoice, then:
  - a. Amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said seventh day;
  - b. Engineer shall be entitled to its attorney's fees and costs in any action to recover amounts due and unpaid; and
  - c. Engineer may, after giving seven (7) days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- 4.3.6 If Owner disputes an application for payment, whether monthly progress payment of lump sum payment, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.6.
- 4.3.7 If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is otherwise entitled under this Agreement.

## ARTICLE 5 - STANDARD OF CARE

- 5.1 The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- 5.2 Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- 5.3 Subject to the standard of care set forth in Paragraph 5.1, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily

furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

- 5.4 Engineer and Owner shall comply with applicable Laws and Regulations.
- 5.5 Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 5.1, and to the extent compliance is not inconsistent with professional practice requirements.
- 5.6 This Agreement is based on laws, statutes, rules, regulations, ordinances, codes, orders of governmental bodies, agencies, authorities, courts having jurisdiction, and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
  - a. changes after the Effective Date to Laws and Regulations;
  - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
  - c. changes after the Effective Date to Owner-provided written policies or procedures.
- 5.7 Engineer shall not be required to sign any document, no matter by who requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.
- 5.8 Engineer shall not at any time supervise, direct, control, or have authority over the work of any person or entity performing or supporting construction activities relating to the Project, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any person or entity performing or supporting construction activities relating to the Project, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of any person or entity (not including Engineer, its employees, agents representatives, and consultants) performing or supporting construction activities relating to the Project to comply with laws, statutes, rules, regulations, ordinances, codes, orders of governmental bodies, agencies, authorities, and courts having jurisdiction, applicable to that person or entity's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any person or entity (not including Engineer, its employees, agents, representatives, and consultants) performing or supporting construction activities relating to the Project.

- 5.9 Engineer neither guarantees the performance of any person or entity performing or supporting construction activities relating to the Project nor assumes responsibility for any failure to furnish and perform the Work in accordance with the Construction Contract Documents by any person or entity performing or supporting construction activities relating to the Project.
- 5.10 Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

## **ARTICLE 6 - ADDITIONAL SERVICES**

- 6.1 If authorized in writing by Owner and agreed to in writing by Engineer, Engineer shall perform services not covered by the Scope of Services under this Agreement and Engineer will be paid for such additional services by Owner in accordance with Engineer's Hourly Rate Schedule, Exhibit C, attached; or by lump sum as agreed by the parties.
- 6.2 If authorized in advance by the Owner, expense of overtime work, requiring higher than regular rates, shall be paid as Additional Services.
- 6.3 The following shall constitute Additional Services, which the Owner may assess to Contractor by a deductive Change Order. However, Engineer looks to Owner for payment, not to Contractor for the following:
- a. Review of a Contractor's submittal out of sequence from the submittal schedule agreed to by the parties;
  - b. Responses to the Contractor's requests for information (RFI) where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
  - c. After the Construction Documents Phase, preparation for, coordination with, participation in and responding to structured independent review processes, including, but not limited to, value engineering services or evaluation of substitutions proposed by the Contractor, and performance or furnishing of services required to revise studies, reports, final Drawings and Specifications or other applicable documents as a result of such review processes;
  - d. Repeated shop drawing reviews of the same submittal, after the initial review and one (1) resubmittal (e.g. "Revise and Re-submit");
  - e. Site visits beyond the number of regularly scheduled site visits that the Engineer has contracted for when such site visits are due to Owners request or Contractor defects in Work or failure to meet the schedule;

- f. Substantial completion inspections beyond one (1) initial inspection;
- g. Final completion inspections beyond one (1) initial inspection.

## **ARTICLE 7 - USE OF ENGINEER'S DOCUMENTS**

- 7.1 The Engineer shall be deemed the author of all documents and designs created and prepared by the Engineer and shall retain all common law, statutory and other reserved rights, including the copyrights. Subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the documents and designs created and prepared by the Engineer, the Owner shall be permitted to retain copies, including reproducible copies, of the Engineer's drawings, specifications and other documents for information and reference, subject to the following limitations:
- 7.2 Owner acknowledges that such documents and designs created and prepared by the Engineer are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
- 7.3 Any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants;
- 7.4 Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and,
- 7.5 Such limited license to Owner shall not create any rights in third parties.
- 7.6 The Owner shall not use, modify or assign to others the Engineer's documents or designs on other projects without the Engineer's express written consent.

## **ARTICLE 8 - INSURANCE**

- 8.1 Engineer shall procure and maintain in force, the insurance policies set forth below.  
  
Owner agrees that these insurance policies are in place to respond to claims made against the Engineer and, further, Owner will not withhold payment due to the Engineer for Engineers Work, for any claims that are covered by Engineer's insurance. The Engineer's insurance shall be written with limits of liability not less than those set forth below:

TYPE	LIMITS
Workers Compensation	Statutory Amount

Employer's Liability	\$1,000,000 by disease
	\$1,000,000 each accident
	\$1,000,000 each employee
Commercial General Liability:	
Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Product/Completed Operations	\$2,000,000
Personal Injury/Advertising Liability	\$1,000,000
Automobile Liability:	
Combined Single Limit	\$1,000,000
Umbrella/Excess Liability	
Each occurrence	\$1,000,000
Professional Liability	
Each claim and annual aggregate	\$2,000,000

- 8.2 The Engineer shall maintain in effect all insurance coverage required under this Agreement at the Engineer's sole expense. All insurance policies shall contain a provision that the coverages afforded thereunder shall not be cancelled, except for non-payment of premium, until at least thirty (30) days prior written notice has been given to the Owner.

## **ARTICLE 9 - INDEMNITY**

- 9.1 To the fullest extent permitted by applicable laws, statutes, rules, regulations, ordinances, codes, orders of governmental bodies, agencies, authorities, and courts having jurisdiction, Engineer shall indemnify and hold harmless, but not defend, Owner, and Owner's officers, directors, members, partners, and employees, from actual direct losses, damages, and judgments (including reasonable attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act, error, or omission of Engineer or those for whom Engineer is legally liable in the performance of professional services in this Agreement, as adjudicated in a court of competent jurisdiction. Nothing in this paragraph shall obligate Engineer to indemnify any individual or entity from and against the

consequences of that individual's or entity's own negligence or willful misconduct. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Section 12, "Limitation of Liability."

- 9.2 To the fullest extent permitted by applicable laws, statutes, rules, regulations, ordinances, codes, orders of governmental bodies, agencies, authorities, court having jurisdiction, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from any damage, liability, cost (including reasonable attorneys' fees and costs of defense) to the extent caused by Owner's negligent acts, errors, or omissions and those for whom Owner is legally liable and arising from the project that is the subject of this Agreement.
- 9.3 To the fullest extent permitted by applicable laws, statutes, rules, regulations, ordinances, codes, orders of governmental bodies, agencies, authorities, courts having jurisdiction, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys fees and expenses) caused by, arising out of, relating to, or resulting from any material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to any federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- 9.4 The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- 9.5 To the fullest extent permitted by applicable laws, statutes, rules, regulations, ordinances, codes, orders of governmental bodies, agencies, authorities, courts having jurisdiction, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- 9.6 To the fullest extent permitted by applicable laws, statutes, rules, regulations, ordinances, codes, orders of governmental bodies, agencies, authorities, courts having jurisdiction, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of,

resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

#### **ARTICLE 10 - DISPUTE RESOLUTION**

- 10.1 Owner and Engineer shall endeavor to resolve claims, disputes and other matters in question between them by mediation as a condition precedent to pursuing legal action. Owner and Engineer agree that mediation shall be held in the state in which the Project is located.
- 10.2 Owner and Engineer agree to share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- 10.3 If the Owner and Engineer are unable to resolve a dispute through mediation pursuant to Paragraph 10.1, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction, in the state in which the Project is located, unless an alternate location is mutually agreed upon.

#### **ARTICLE 11 - CONTRACT INTERPRETATION**

- 11.1 This Agreement shall be governed by the law of the state in which the Project is located.
- 11.2 The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision. The invalid provision shall be deemed stricken and the remainder of this Agreement shall remain in full force and effect.
- 11.3 This Agreement is solely for the benefit of the parties hereto and represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, proposals, bids, or agreements, either written or oral.
- 11.4 No modification or amendment of any of the terms and conditions of this Agreement shall be valid unless agreed to in writing and signed by both parties.
- 11.5 To the fullest extent permitted by applicable laws, statutes, rules, regulations, ordinances, codes, orders of governmental bodies, agencies, authorities, courts having jurisdiction, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

#### **ARTICLE 12 - LIMITATION OF LIABILITY**

- 12.1 To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer, its officers, directors, employees, agents, and sub-consultants, and any of them, to Owner and anyone claiming by, through or under Owner, for any and all claims, losses, liabilities, costs or damages whatsoever arising out of, resulting from or in any way related to the Project or this



Agreement from any cause, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, or warranty (express or implied) of Engineer, its officers, directors, employees, agents or sub-consultants or any of them, shall not exceed the total compensation actually received by Engineer from Owner under this Agreement, or the mutually agreed upon sum of \$75,000, whichever is greater. The Owner agrees and acknowledges that specific consideration has been given by the Engineer for this limitation and that it is deemed adequate.

#### **ARTICLE 13 - SUSPENSION AND TERMINATION**

- 13.1 Engineer may, after giving seven (7) days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Article 4.
- 13.2 Engineer may, after giving seven (7) days written notice to Owner, terminate this Agreement if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or if Engineer's services for the Project are delayed or suspended for more than ninety (90) days for reasons beyond Engineer's control. In such event, Engineer shall have no liability to Owner on account of such termination.

#### **ARTICLE 14 - ADDITIONAL TERMS**

none

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the day and year first above written.

Owner:

The Town of Green Mountain Falls, Colorado

By: \_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Engineer:

Wilson & Company, Inc., Engineers & Architects

By: \_\_\_\_\_

Print name: Steve J. Salazar

Title: Vice President

Date: 7/19/2021

**None of the parties shall be legally bound by anything contained herein, or any negotiations pursuant hereto, unless and until the parties have agreed to all terms and this document has been executed and delivered by authorized representatives of each party.**

## **EXHIBIT A**

### **Scope of Services**

(Attach Engineer's Proposal here)

## **EXHIBIT B**

### **Subconsultants**

Owner approves of the use of the following subconsultants by Engineer:

<u>Name</u>	<u>Discipline</u>
Edward James Surveying, Inc.	Surveying
Vivid Engineering	Geotechnical Engineering
Smith Environmental & Engineering	Environmental Services

## **EXHIBIT C**

### **Hourly Rate Schedule**

The following rates are subject to increase on August 1 of each year based on Engineer's annual salary rate adjustments.

Employee Title	Rate
Unit Manager	216.00
Senior Project Manager	168.00
Engineer II	135.00

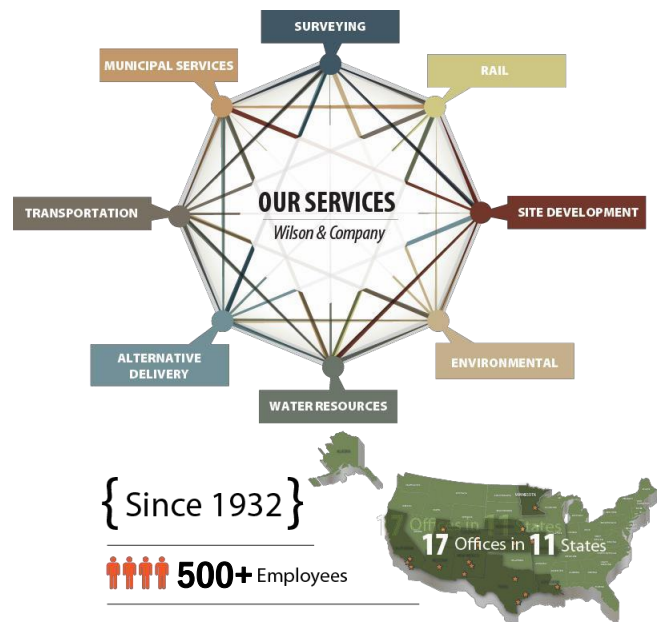


# Wilson & Company

## Firm Background

Since 1932, Wilson & Company, Inc., Engineers & Architects (Wilson & Company) has specialized in civil engineering for public works projects including the planning and design of water resources system solutions. We have 17 offices located throughout the United States, with more than 500 employees.

Wilson & Company's stormwater expertise spans from watershed planning to conveyance system design. Our experience includes all facets of hydraulic systems and detention basin and sediment basin design. Our commitment to green growth and the delivery of environmentally friendly design is demonstrated when we present "green" recommendations that can be applied to design, construction, and material methodologies. This expertise is complemented with full service structural design, land acquisition, environmental permitting and construction management capabilities.



## Project General Description

We understand that the primary goal of this project is to intercept and alleviate the continued transport of sediment impacting the Town Lake. The project will involve developing an understanding of the existing conditions, develop a plan and select the best alternatives for basin design, and then provide the final design, construction plans and specifications for construction of stilling basin/sediment basin improvements, and apply for permits required to construct the project.

## Project Background Information

The Town of Green Mountain Falls Lake is a prominent feature in the town center and provides a picturesque venue for many public and private activities held throughout the year. There has been much concern in recent years over the aesthetics of the lake due to the impacts of sedimentation from storm activity. As a critical town venue and environmental asset, the Town desires to protect the lake through reduction of sediment impacts and improved management of storm water runoff quantities and quality. Storm water drainage through the town is directly tributary through the lake to Fountain Creek, which also is located within the town's limits. Incorporating sediment controls to improve the lake's water quality will also improve water quality in the Fountain Creek Basin. This project for Green Mountain Falls is identified in the Pikes Peak Regional Transportation Authority (PPRTA) list of funded capital projects.

## **Project Approach**

### **Project Coordination**

Wilson has completed Phase 1 of the project which included a study and conceptual alternatives for the solution. Upon completion, the Town has decided to move to the next step to complete engineering documents for the design and construction of the recommended improvements.

Upon receipt of notice to proceed, Wilson & Company will set up a kick off meeting with the Town Manager to review the scope, budget, schedule, and goals of this next phase in the project. The engineering scope and schedule will be reviewed in detail, and goals and milestones will be agreed upon. In addition to meeting minutes, we will prepare a progress reports and submit project status updates with our monthly project invoices.

### **Project Management/Administration**

Wilson & Company will assign the management of this contract to Mr. Andre Brackin. Other staff will be assigned to the project to assist Andre with the tasks required to manage the schedule and provide quality deliverable to meet these goals. With over 30 years' experience in the planning and design of water resource solutions, Andre will be the sole point of contact for the Town Manager and will be responsible for all activities required for the successful completion of the contract.

### **Planning/Alternatives/Conceptual Design**

Andre will orchestrate our project plan to successfully complete the engineering design services for the project. Wilson & Company's objective is to satisfy the primary goals of the project through all steps of project development. Following the completed first phase of the project, detailed scope and fee estimates for the second and third phases are being provided at this time.

The second phase is a study utilizing the findings from the drainage analysis in the first phase to determine significant movement, locations of aggradation and degradation, and transport of sediment in drainage-ways, which are for the most part roadside ditches in the town's road system. The most critical aspect of the project will occur in this phase which will determine potential locations for sediment catch points given very tight road Rights-of-Way constraints extending downstream to the lake.

The third phase consists of designing the stilling/sediment basins for the locations previously determined, and production of plans, specifications, and cost estimates for construction.

Each of these phases are described in more detail, along with a recap of the services that occurred in Phase 1.



## Phase 1 Scope – COMPLETED

### Data Collection and Review

Our team performed a cursory review of existing data and visited the site to familiarize ourselves with the challenges and opportunities of the area that will influence the alternative development and analysis. Members of our team provided a more detailed review of the relevant documents available. Our team proceeded with the collection and review of documents to gain an understanding of the characteristics of the site soils, the terrain and topographical features and any constraints including structure locations, property rights, permitting and utility locations.

#### Record Plans

We reviewed available relevant record drawings and reports for the area infrastructure including structures, upstream detention basin, upstream and downstream channels, property ownership documents and deeds.

#### Topographic Information

Our design team utilized the topographic mapping for the area for the initial study. Our team walked the site with obtained topographic mapping to gain an understanding and get a feel for the site features and how they interact with the design.

#### Field Reconnaissance

Our project manager reviewed the natural terrain to observe the soils and vegetation within the project limits to look for “green treatment” opportunities.

Our design reviewed the locations of sediment accumulation and movement in roadways, and drainage impacts in the lake area, gained knowledge of historical information, identified constraints or opportunities we did not know about, and shared ideas about design alternatives.

#### Document Site Visit Findings

Using the knowledge and data gained from the efforts described above Wilson & Company prepared a brief summary of the existing site conditions and included the findings in the Hydrology and Hydraulics Report identified below. This summary documented the site data to be used as the foundation for the drainage study and for eventual siting of basins.

### Hydrologic Modeling

Our team reviewed documentation regarding drainage reports and previous storm documentation as well as anecdotal information and special flood hazard zone maps. We created a preliminary Rational Method model for the system to analyze contributing runoff. This data is to be used later in the final design for the proposed improvements. This model was prepared with the ability to extend this analysis to the remaining town area, such that a master plan for drainage can eventually be achieved for Green Mountain Falls. The list of deliverables in the phase 1 scope included:

### Deliverables

1. Topographic Mapping
2. Existing Conditions Memorandum
3. Hydrology & Preliminary Site Visit Report

## Phase 2 Scope

### Preliminary Design

One of our primary missions at Wilson & Company is to assist communities in finding ways to economize the costs of their infrastructure projects while maximizing the benefits that the projects provide. In accordance with this mission, we have invested some time in identifying a design alternative for the project that we believe may offer some benefits to Green Mountain Falls. This alternative consists of placement of two sedimentation basins upstream of the Green Mountain Fall Town Lake, as depicted in Exhibit 1 following this scope.

The scope for completing this conceptual design includes the following.

#### Geotechnical Evaluation

Soils information is required for preliminary study and final design of the basins. Data to be collected includes the following characteristics:

- Water content
- Unit dry weight
- Swell/consolidation
- Atterberg limits
- Grain size analysis
- Moisture-density characteristics

#### Design Survey

GPS RTK techniques will be used to collect data. All topographic features will be collected using TMOSS coding. We will prepare 1' contour map of an area of approximately 200 feet either side of the proposed channel flow line and the two drainage structures on the north and south end of the project.

- **Research:** Wilson and Company will research County Records for deeds, final plats and aliquot corner monument records.
- **Horizontal and Vertical:** Using GPS technology establish up 3 control monuments. Horizontal data will relative to National Spatial Reference System (NSRS) for geodetic control. Differential leveling will used to establish elevations relative to North American Vertical Datum (NAVD) 1988
- **Right of Entry:** Prior to any field work be completed by Wilson we will research and identity the property owners to obtain R.O.E. form 703 for each property owner.

### Anticipated Challenges

The biggest challenge with installing these basins will be the constraints of public right-of-way. The basins should be located in publicly owned parcels in perpetuity for operations and maintenance. Road rights-of-way are currently the only known parcels not requiring purchase of property. While there is some flexibility in geometry for design of stilling/sediment basins, there may be inadequate space for storage of comparatively large volumes of sediment in the roadway. Permanent easements on adjacent private property may be necessary for location of the basins. Existing

utilities are also an expected conflict with any excavation in the town limits, and may result in costly relocation. These relocations may be partially or wholly funded by the utility owner, but depends upon factors to be determined during the phase 2 part of the project. Traffic management in the work zone during construction will be a challenge for local residents as there is only local streets for detouring traffic.

### **Utility Coordination**

All utilities in the locations of the two basins will be identified and a preliminary meeting will be held with each of the utility owners to discuss the property rights, operations and maintenance and constraints involved with each utility and potential relocation. No utility relocation design documents is included in the scope of services.

### **Environmental Clearances and Permitting**

A list of required permits will be developed. We will prepare any documents and exhibits required for submittal and assist the Town in the process to obtain all required permits. Permitting documents are expected to be very limited based on the nature of the anticipated design.

### **Preliminary Engineering**

With the determination of the basin locations, Wilson & Company will commence work to complete preliminary engineering and prepare 30% construction documents. The plans will also identify the existing road ROW's, and proposed easements, if needed.

### **Deliverables**

We will identify critical construction priorities and timing such as funding, handling of water during construction, material supply, flood season consideration, working hours and other critical elements that could impact the construction of the project. The deliverables will include draft preliminary plans and an estimate of probable costs for the Town's review and approval. A list of anticipated deliverables follows:

#### **Documents:**

1. Environmental Clearances/Permitting
2. Geotechnical Data/Evaluation

#### **Plans:**

1. Preliminary Stilling/Sediment Basin Plan Sheets

The 30% design review meeting will be a key point of collaboration prior to moving on to Phase 3 and preparation of construction documents. This meeting will include an in-office review. Key decisions for basin locations, design parameters, dimensions and construction materials will be made at this point of the project.

## Phase 3 Scope

### Final Engineering

Wilson & Company will prepare the final office review construction plans and documents for review and approval. We will log all comments and redlines and prepare final deliverables in compliance with the Town of Green Mountain Falls and El Paso County standards as applicable. If determined necessary, ROW plans and legal descriptions will be prepared for any required additional ROW parcels, PE's and TE's. Comments from the Preliminary ROW Plans will be applied and final adjustments made to the ROW plans. The final ROW, parcel and PE corners will be monumented per Colorado revised statutes. A final ROW plan set will be submitted to the Town and recorded with the County Clerk and Recorder's office.

### Deliverables

The final deliverable will comply with the outline in the scope of work and will include paper and electronic files as required. A list of typical anticipated final design deliverables follows:

#### Plans:

1. Cover Sheet
2. Location Map/index of sheets and general notes
3. Survey Control Sheet
4. Quantity Tables
5. Overall Plan sheet
6. Typical Sections
7. Plan and Profile Sheets
8. Structure Detail Sheets

### Final Cost Estimates & Schedules

A final estimate of probable cost and construction schedule will be prepared and submitted for review as part of the final office review.

## Engineering Cost and Schedule – Phases 2 &3

Total compensation for completion of the scope of services outlined in Phases 2 & 3 is a time and material cost, with an estimated effort to not exceed \$75,000.00. For the completion of Phase 2 & 3 services, Wilson & Company expects to complete this work within 12 -14 weeks following the Notice to Proceed for this work.

## Optional Additional Bid Process and Construction Phase Services

Wilson & Company has an experienced construction management operation with resident engineers, construction managers, administrative assistants, and construction observers ready to support the Town. Our team can organize and lead the pre-bid conference, prepare addenda, provide the tabulation of bids and a letter of recommendation prior to award. We can also provide any level of support during construction to assist the Town with RFI's, pay application review, quantity source books and change orders. We can assist with final close out and record drawings as needed.

## Optional Operational and Maintenance Plan Development

Wilson & Company has a experience to develop an operational and maintenance plan to properly maintain the new stilling basins. This plan would include processes and time schedules for regularly scheduled tasks to ensure the integrity and operation of the basins are maintained.

## Optional Additional Property Acquisition Services

Wilson & Company can assist the Town with the acquisition process including hiring appraisers, hiring agents for making offers and negotiations and closing. In addition, we can provide:

- **Title Commitments:** Wilson & County will contract a Title Insurance Company to provide a Title Commitment for the affected properties and provide an update policy prior the conveyance of the legal descriptions.
- **Legal Descriptions and exhibits:** Wilson & Company will prepare legal descriptions and 8.5" X 14" exhibits to be used to acquire permanent ROW and permanent and temporary easements.
- **Appraisal Staking:** Wilson & company will provide staking in the field of the proposed ROW lines and easements for the appraisers and property owner to view the impacted areas.

## Optional Other Additional Services

Wilson & Company is a full-service engineering and architecture firm. All services with the exception of surveying, utility locating, and geotechnical engineering are performed in house and will be a value-added asset to meet the schedule required for this project. We can assist the Town with consulting services as needed for the successful completion of this project.

These optional services will be provided upon request by the Town Manager. Services could include, but not be limited to the following:

- Public engagement during the design and/or construction phases of the project.
- Completing utility relocation plans for any utilities that may be in conflict with the extents of the project.
- Operational guidance after the construction of the project is complete to assist in the proper maintenance of the facilities.
- Traffic/road design for further improvement of drainage with respect to the design and construction of the streets and roads in town.
- Underground utility potholing and locating.

Town of Green Mountain Falls  
Stilling Basin - Phase 2 & 3  
Proposed Manhours / Fee

Fee Worksheet Final.xls

COST DATA					
P-6	72.00	P-2	30.00		
P-5	56.00	P-1	26.00		
P-4	45.00	OD-2	20.00		
P-3	38.00	IA-1	14.00	Mult.	3.00

LABOR COSTS:

Item #	Description / Task	P-6	P-5	P-4	P-3	P-2	P-1	OD-2	IA-1	Total Hrs	Direct Labor Cost	OH Cost	Profit	Total Labor Fee
Phase 2 & 3 Preliminary and Final Design														
1	Project Management													
1.1	Project Management		20							20	1120	1926	312	3359
2	Preliminary Design Engineering													
2.1	Geotechnical Evaluation Coordination			4						4	180	310	50	540
2.2	Survey & Mapping Coordination		4	4						8	404	695	113	1212
2.3	Utility Coordination		2	4						6	292	502	81	876
2.4	Environmental Permitting Coordination			2						2	90	155	25	270
2.5	Preliminary Engineering									0	0	0	0	0
	Engineering Plan Sheet Drawings		4	160						164	7424	12769	2070	22263
	Erosion Control Plans		2	10						12	562	967	157	1685
2.8	Cost Estimating & Scheduling			8						8	360	619	100	1080
3	Final Design Engineering													
3.2	Final Engineering									0	0	0	0	0
	Engineering Plan Sheet Drawings		2	90						92	4162	7159	1160	12481
	Erosion Control Plans		4	10						14	674	1159	188	2021
	Bidding Documents	4	8	20						32	1636	2814	456	4906
	Cost Estimating & Scheduling			8						8	360	619	100	1080
	Total Labor Costs	4	46	320	0	0	0	0	0	370	17264	29694	4813	51771

EXPENSE COSTS:

Item	Description	#	Unit Cost	Total Expense Cost
Phase 1 - Engineering Study/Assessment				
1	Mileage (40 miles round trip)	200	0.56	112
2	Meals (#)	6	10.00	60
3	Geotechnical Expenses (Vivid Engineering)	1	6000.00	6000
4	Survey Expenses	1	10000.00	10000
5	Subsurface Utility Engineeering Expenses (Goodbee & Associates)	1	0.00	0
6	Permitting Expenses (Smith Environmental & Engineering)	1	7000.00	7000
Total Expense Cost				23172

TOTAL FEES:

Item	Total Cost
Total Labor Fee	51771
Total Expense Cost	23172
Total Fee*	74943



**Green Mountain Falls**

COLORADO  
OFFICE OF THE TOWN MANAGER

10516 Green Mountain Falls Road  
PO Box 524  
Green Mountain Falls, CO 80819  
[www.gmfco.us](http://www.gmfco.us)

Tuesday, July 20<sup>th</sup>, 2021

Rick Sonnenberg, PPRTA Manager  
Pikes Peak Rural Transportation Authority (PPRTA)  
15 S. 7<sup>th</sup> St.  
Colorado Springs, CO 80905

**Re: Town of Green Mountain Falls, Colorado – Board of Trustees support for the Town of Calhan, Colorado's request to join the PPRTA**

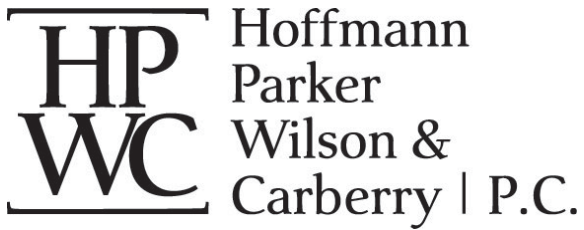
Dear Mr. Sonnenberg:

On Tuesday, July 20<sup>th</sup>, 2021 the Board of Trustees for the Town of Green Mountain Falls, Colorado voted in support of the Town of Calhan, Colorado's request to join the Pikes Peak Rural Transportation Authority.

Sincerely,

Angie Sprang  
Town Manager

cc: GMF Board of Trustees



Corey Y. Hoffmann  
Kendra L. Carberry  
Jefferson H. Parker  
M. Patrick Wilson

Of Counsel  
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Daniel P. Harvey  
Ruthanne H. Goff  
Evin B. King  
Katharine J. Vera  
Elizabeth G. LeBuhn

**TOWN OF GREEN MOUNTAIN FALLS**  
**MEMORANDUM**

**TO: BOARD OF TRUSTEES**

**FROM: JEFFERSON H. PARKER, TOWN ATTORNEY** JHP  
**KATHARINE J. VERA, ESQ.**

**DATE: JULY 14, 2021**

**RE: REVISIONS TO GREEN MOUNTAIN FALLS MUNICIPAL CODE**

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This memorandum provides an overview of the portions of the Town's Code that have been revised, deleted, or amended as part of a project to redraft the Town's Code. Over the course of the past few months, the Town's attorneys have worked to update the Code in an effort to remain consistent with state law and to ensure the Code accurately reflects the Town's current practices and procedures. A majority of the updates to the Code were made in order to remove superfluous language and to remove sections that contained bulky procedural information that does not need to be contained in the Code and can be instead maintained internally by the Town (e.g., lengthy procedural and technical specifications on construction procedures).

The Town's attorneys worked with and received comments from the Town Manager, Town Clerk, and Town Marshal in making changes to the Code. Attached to this memorandum are Microsoft Word compare documents for the existing Code and proposed changes, identifying the changed material in each chapter. Below is an explanation of the major changes to each chapter, where elaboration was warranted. Minor changes were not addressed.

**Changes to Chapter 1**

**Article I:** Most changes to this Article were to remove superfluous language.



**Article IV:** The Town opted to increase its maximum fine from \$1,000.00 to \$2,650.00 pursuant to C.R.S. § 13-10-113. The Town also imposed imprisonment for up to one year under this same provision.

The Town is considering a "hybrid option" of authorizing the maximum \$2,650.00 penalty generally but providing for a reduced (\$500.00) fine cap and no potential jail time for certain low-level offenses such as traffic infractions, noise disturbances, littering, and animal related offenses which don't have state counterparts that would otherwise require a jury. This retains the Town's ability to collect higher fines on certain offenses (i.e., theft, harassment) while still reducing costs associated with jury trials, though not removing jury trials altogether as a possibility. With this option the Town essentially decriminalizes only part of its Code. While more work initially to determine which provisions may be decriminalized, this option does provide the Town with the ability to properly punish the more serious offenses without having to remove those offenses from its Code and thereby requiring the offenses to be written into county court rather than the Municipal Court. The Town has not yet identified which offenses to classify as "low-level," and may need to work with the Trustees in identifying which offenses to "decriminalize."

Relatedly, the definition of "misdemeanor" in Sec. 1-11 has been removed as this is a legal term that should not be interpreted differently by the Code, but should rather follow the interpretation of state statute. Future references to the term "misdemeanor" will be removed unless the context is fitting. Only the generic term "violation" should be used for a violation of the Code.

## **Changes to Chapter 2**

**Section 2-11:** Article XVIII, Sec. 11 of the Colorado Constitution was amended in 1994 to provide term limits for elected public officials in the state, including those for statutory towns. Therefore, this Section needed to be amended to comply with the Constitution and the Mayor is limited to three terms of two years in office rather than four. Amended to reflect the Town's decision in the 2018 election to move from 7 trustees to 5 trustees.

**Sections 2-20 and 2-21:** These Sections are important guidance for handling Town business at public meetings, but do not necessarily need to be in the Code. These were removed and will be adopted into a policy, rather than being contained in the code.

**Section 2-23:** This Section has been amended to remove the hearing process for ordinance adoption. Adoption of ordinances is typically a legislative act by the Board, and a hearing is therefore not required. Public comment can and should still be allowed at every public meeting where an ordinance is proposed for adoption, but allowing a full public hearing, requiring a workshop be held prior to consideration at a meeting, and requiring reading in full of the ordinance only serves to place additional unnecessary process on the Town. The Town could keep these provisions if it verifies this process is followed for every ordinance and still wishes to follow this process, but it is not recommended.

**Article III:** This Article regarding hearings has also been modified to remove unnecessary procedures that it is unlikely the Town follows. They have also been simplified. Former Section 2-56 (now Sec. 2-46) did not comply with the Open Meetings Law.

**Section 2-63:** The Town may set this requirement for a bond by Town officers if it so desires. We could alternatively set this amount in the fee resolution rather than in the Code.

**Section 2-66:** Officers are handled differently under state law than employees are. This section now follows the process of C.R.S. § 31-4-307.

**Article V:** This Article was previously reserved, and we have moved up the Code of Ethics to fill this space with minor revisions.

**Article VI:** Most deletions from this Article are already part of the Municipal Court Rules of Procedure, are inherent powers of a judge, or should be provided for administratively, and thus unnecessary for the Code. Most notably we have added provisions for contempt of court and for seeking collections on unpaid fees and costs, as well as restitution for victims. Under C.R.S. § 5-16-111.5 of the Colorado Fair Debt Collection Practices Act, a collection agency collecting on any debt arising from past-due fines or fees due to any political subdivision within the state can only charge 18% in additional fees and costs and this limitation has been incorporated into the Code. This Article will need to be revisited once we discuss decriminalization and penalties to ensure compliance before final adoption.

**Article VII:** This Article pertaining to the Town Marshal has not been altered very much, but some outdated and concerning provisions were taken out (special marshals, duty to aid). If there is no Town jail and if we decriminalize the Code this provision will need further revision. The bond amount may also be changed or moved to determination by resolution if the Town desires.

**Article VIII:** Parking code enforcement officers have now been added to the Code.

**Article IX:** This Article may be the biggest change in the Code so far and has been rewritten to have the Town comply with state emergency management statutes known as the Colorado Disaster Emergency Act, C.R.S. § 24-7-33.5, *et seq.* Under these changes, the Town Manager, and not the Mayor, holds most authority as the designated emergency manager with emergency manager powers as set forth in the statutes. However, the mayor is the backup authority should the Town Manager be unavailable, and it is still the Mayor who must first declare a disaster emergency.

### **Changes to Chapter 3**

As a preliminary matter, this Chapter has been renumbered from Chapter 4. There is no Chapter 3 in the current Code.

**Article I:** Removed the provision related to publication of financial statements because the Town voted in 2018 to no longer publish proceedings related to payment of bills, contracts, and rebates.

**Article III:** Removed the licensing section under the sales tax provision, because the Department of Revenue handles this and there are still business licenses required under Chapter 4.

Revenues from the 2% use tax should go to the general fund unless the Town is aware of any limitations placed on the use of these tax revenues when the tax was established. The 1% additional use tax is restricted by its establishing documents, as correctly reflected in the Code.

**Article VI:** This has been moved to Chapter 3 Revenue and Finance from Chapter 4 Franchises, as it better fits in the Chapter regarding revenues and taxes for the Town. The tax is still valid and the calculation has not changed. The penalty has been updated to reflect the new general maximum penalty.

**Article VII:** This has been moved to Chapter 3 Revenue and Finance from Chapter 4 Franchises, as it better fits in the Chapter regarding revenues and taxes for the Town. Emergency telephone service charges were recently addressed by HB-20-1293 and this Article needed minor changes to account for this updated statutory scheme. Legislation makes it clear this is not a tax, but a fee to defray costs of program, which means it will be easier for the Town to adjust the rates as needed to defray these costs. However, the fee cannot exceed the annual threshold amount established by the public utilities commission of the state of Colorado. This current rate is \$.50 per month. This is the also the current rate in the Code. The Town could remove the 2% alternative in the Code, however, as it reads currently, the Code still complies with the PUC rate as it is the lesser between these two options which will ultimately be charged.

#### **Changes to Chapter 4**

As a preliminary matter, this Chapter has been renumbered from Chapter 5 to account for the gap in the current Code where there is no Chapter 3. This Chapter has also undergone major revisions and we have deleted the actual franchise agreements from the Code as these were expired and also do not need to be adopted into the Code. Instead, we added basic provisions for implementing future franchise agreements which will not be enacted into the Code. We also moved the telephone tax and 911 surcharge fee to Chapter 3, as each of those better fits within the revenue and finance provisions of the Town.

#### **Changes to Chapter 5**

**Section 5-14:** The Section is new, as we want to limit the general penalty of \$2,650.00 to the lesser \$499.00 in these circumstances to avoid jury trials.

**Article II:** This Article has been converted into a business licensing fee, rather than a business occupation tax. The former tax likely violated TABOR in the manner in which the rate is set by resolution by the Board of Trustees, rather than approved by the voters at an election. Without further information from the Town as to how and when this tax was established and how the tax has been historically collected and the rates at which this tax has been imposed, the tax is very likely unconstitutional. The Article was originally titled "business licenses" and the Town does

currently collect a fee to issues business licenses. Therefore, we think the intent of this section was to establish authority to issue business licenses and collect a fee for this issuance. We have therefore made changes to this Article to implement the same. The more general licensing requirements which apply to all licenses issued by the Town are addressed in Article I. If the Town would like to us explore further whether the business occupation tax is valid, we can do so if more information is provided.

**Article III:** This Article has been updated to the new statutory references in Title 44. We also needed to establish who the liquor licensing authority is, and have set this entity as the Board of Trustees. If this is incorrect and the Town uses another body as the Liquor Licensing Authority, this provision can be changed.

**Article VI:** This Article combines medical and retail marijuana prohibition into one article for "regulated marijuana" which follows the new statutory scheme under Title 44. All regulated marijuana sales remain prohibited in the Town. The penalty is criminal in nature.

### **Changes to Chapter 8**

For ease of use, this Chapter has not been renumbered. We will likely move another Chapter forward to fill the gap at a later time, or may reserve a chapter.

**Article I:** We have adopted the newest model traffic Code for the Town. This 2020 version has had good reviews from users so far and will provide the Town with the most up-to-date traffic regulations including new provisions mechanized equipment like e-bikes and e-scooters. Most major provisions of the previous edition of the model traffic code, which account for the most citations (speeding, careless and reckless driving, etc), remain unchanged. There was a disconnect between Sections 8-2 and 8-4 regarding what the general speed limit in the Town is to be. We have corrected this to 20 mph. The Town may decide to increase or reduce this but it need to be consistent in both Sections.

**Section 8-5:** This Section has been changed to comply with state law regarding right to jury in criminal traffic matters. Any person charged with a misdemeanor under counterpart state law or the Model Traffic Code will be entitled to a jury. For this reason, it is best not to reference the specific provisions that are criminal, as this might change over time. The Model Traffic Code does a good job of listing in the offense what the penalty is, and if it is a misdemeanor or noncriminal traffic offense. The fine for noncriminal traffic offenses has been capped at \$499.00 so persons charged under these offenses will be not be entitled to a jury. Paragraphs (e)(f) and (g) have been taken out of the Code and should be placed in the annual fee schedule. The Town still has the option of keeping these in the Code if it does not want to place these in the fee schedule.

**Article II:** Part 18 of the Model Traffic Code addressed abandoned vehicles on public property, so this section need only address abandoned vehicles on private property. Minor changes have been made to account for this.

**Article III:** This is new, and adopts the residential parking plan we drafted for the Town last summer. It is consistent with the Parking Services Agreement recently reviewed by us. That agreement goes into more detail over the establishment of parking areas and rates. The Code need only establish the means of violation and the parameters of the program.

### **Changes to Chapter 7 (Previously Chapter 11)**

Overall, most of the changes to this Chapter were made to remove superfluous language and superfluous provisions, to remove procedural provisions that can be addressed administratively, and to remove outdated provisions with the overall goal of condensing the chapter and ensuring clarity and uniformity throughout.

**Article I-II:** Added a provision regarding removal of snow and ice because this wasn't explicitly mentioned previously and condensed a few sections regarding the maintenance of sidewalks into Section 7-3. Removed many of the procedural provisions in Article II regarding construction and repair to streets and sidewalks and copied them over into a separate document in case the Town wants to house these elsewhere.

**Article V:** Removed some of the procedural information as to the presentations that need to be given in conjunction with land sales.

### **Changes to Chapter 10**

Again, most of the changes to this Chapter were made to remove superfluous language and superfluous provisions, and to remove outdated offense provisions.

**Article I:** Deleted the classification of violations section because it isn't necessary to designate each violation in the code as class 1 or 2 petty offenses. The Town's prosecutors likely already have fine and punishment schemes for all the violations the Town handles in municipal court that properly address the severity of each offense. We added a violation and penalty section at the end of Article I that cites to Section 1-42 and addresses restitution and penalties.

**Article II:** All changes to this Article were made to simplify and condense the provisions regarding offenses by or against public officers and government. We included a provision that addresses civilians being prohibited from impersonating Town police vehicles, per the Town Marshal's suggestion.

**Article V and VI:** Simplified and condensed provisions relating to theft and removed the offense relating to the use of "slugs" as it is rather outdated.

**Article VII:** Added marijuana definitions and updated language regarding possession of marijuana, public consumption of marijuana, drug paraphernalia and supply of marijuana to minors.

**Article VIII:** The language in this article was updated to make it unlawful for minors to consume any alcoholic beverages, and not just fermented malt beverages. We deleted the section regarding minors being prohibited in taverns, per the Marshal's comment. Taverns are not a defined term, and bars are free to prohibit anyone under the age of 21 from entering their premises. We did not remove Section 10-164 concerning fights at bars or disturbances, but it should be noted that this would be hard to enforce. If there are consistently fights or noise disturbances at a bar, the Town may issue a warning and threaten action against the bar's license. The Marshal noted that we should address liquor licenses for restaurants that have extended alcohol sales into their parking lots. This is currently being addressed by temporary modification of liquor license premises during COVID. However, some businesses may want to permanently alter their premises to include sales in newly configured outdoor spaces in parking lots or adjoining outdoor areas. Under CRS § 44-5-101 and Chapter 5 of this code, special licenses and permits can be acquired for liquor sales as well. If the Town is interested in offering another type of permit, this is something we can address. We have included language to allow the possession of unopened containers in conjunction with alcohol takeout and delivery.

**Article IX:** Most changes to this Article were made to simplify and condense the provisions related to offenses listed under this Article. The offense related to prohibiting publications inciting hatred and violence poses first amendment issues, and was removed. Publications are only illegal under state law if they make a direct call to violence or make specific threats of violence. We believe this provision is largely addressed by the harassment provision.

**Article XI:** The Town may want to consider expanding the curfew for minors to 12:00 a.m. to 5 a.m. on weekends and may want to consider including an exception for driving to and from place of employment (this is implied, but not explicitly stated).

### **Changes to Chapter 11: Annexation Chapter**

This chapter was previously repealed but we have drafted a short chapter outlining basic annexation procedures including submittal requirements, the required dedications, and planning commission review.

### **Changes to Chapter 18: Building Regulations**

This chapter adopts the 2017 Pikes Peak Regional Building Code, which includes electrical and plumbing codes. This chapter also adopts the 2018 International Fire Code. Article III of this chapter, concerning revocable permits for placing things on public property (e.g., newspaper stands, benches, kiosks), was moved to Chapter 7: Streets, Sidewalks, and Public Property.

Old Chapter	New Chapter	Notes on Sequence
1 – General Provisions	1	No change.
2 – Administration and Personnel	2	No change.
4 – Revenue and Finance	3	There is no current Chapter 3, so we moved this up to fill the gap.
5 – Franchises and Communication Systems	4	There is no current Chapter 3, so we moved this up to fill the gap following previous move up.
6 – Business Licenses and Regulations	5	There is no current Chapter 3, so we moved this up to fill the gap following previous move up.
7 – Health, Sanitation and Animals	6	There is no current Chapter 3, so we moved this up to fill the gap following previous move up.
8 – Vehicles and Traffic	8	Chapter 8 is typically traffic chapter for all municipalities, so we left this in place.
10 – General Offenses	10	We can keep this as Chapter 10 and leave a gap for Chapter 9. General Offenses is typically Chapter 10.
11 – Streets, Sidewalks and Public Property	7	Moved up to Chapter 7 to fill gaps.
15 - Annexation	11	
16 - Zoning		Outside counsel Handling
17 - Subdivisions		Outside Counsel Handling
18 – Building Regulations	18	Kept at 18 for now, but could change.

\* There will be a gap for Chapter 9 in our current sequencing. 16-18 could be moved up to be 11-13 if interested.

\* Town will need to order new summons' forms with updated references once adoptions made. We have run into this issue before.

## CHAPTER 1 - General Provisions

### ARTICLE I - Code

#### Sec. 1-1. - Adoption of Code.

The published code known as the *Green Mountain Falls Municipal Code*, of which one (1) 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. This primary code has been promulgated by the Town of Green Mountain Falls as a codification of all the ordinances of the Town of Green Mountain Falls, Colorado, of a general and permanent nature through Ordinance No. 92-04, 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.

(Ord. 92-04 §1)

#### Sec. 1-2. - Title and scope. - Code supersedes prior ordinances.

This Code constitutes a compilation, revision and codification of shall supersede all the ordinances other municipal codes consisting of compilations of the Town of Green Mountain Falls, Colorado, of a general and permanent nature, and shall be known as the Green Mountain Falls Municipal Code.

(Ord. 92-04 §1)

#### Sec. 1-3. - Purpose.

The Board of Trustees finds, determines and declares that the ordinance codified in this Chapter is necessary for the general health, safety and welfare of the community.

(Ord. 92-04 §1)

#### Sec. 1-4. - Adoption of codes by reference.

Codes may be adopted by reference, as provided by state law.

(Ord. 92-04 §1)

#### Sec. 1-5. - Matters not affected by repeal.

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-44 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, passed by the Board of Trustees.

(Ord. 92-04 §1)

#### Sec. 1-63. - Repeal of ordinances not contained in Code.

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All existing ordinances and portions of ordinances of a general and permanent nature adopted by the Board of Trustees are included herein. Any ordinances or portions of ordinances not included in this Code which are inconsistent with the provisions of this Code are specifically repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided.

(Ord. 92-04 §1)

**Sec. 1-4. - Matters not affected by repeal.**

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-4 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 were repealed.

**Sec. 1-57. - 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 the 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, vacating or closing specific streets, alleys and other public ways.
- (2) Naming or changing the names of specific streets and other public ways.
- (3) Establishing the grades of specific streets and other public ways.
- (4) Establishing the grades or lines of specific sidewalks.
- (5) Authorizing or relating to specific issuances of general obligation bonds.
- (6) Creating specific sewer and paving districts and other local improvement districts.
- (7) Authorizing the issuance of specific local improvement district bonds.
- (8) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.
- (9) Annexing territory to or ~~excluding~~disconnecting territory from the Town.
- (10) Dedicating or accepting any specific plat or subdivision.
- (11) Calling or providing for a specific election.
- (12) Authorizing specific contracts for purchase of beneficial use of water by the Town.
- (13) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.

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(14) — ~~Authorizing a specific lease, sale or purchase of property.~~

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(15) — ~~Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.~~

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(16) — ~~Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.~~

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(17) — ~~Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.~~

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(18) — ~~Setting rates, tolls and charges for any water, sewer, utility or proprietary fee, unless otherwise specifically set forth in this Code.~~

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(19) — ~~Appropriating money.~~

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(20) — ~~Levying a temporary tax or fixing a temporary tax rate.~~

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(21) — ~~Relating to salaries, or other employment conditions for Town officers and employees.~~

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(22) — ~~Amending the Official Zoning Map.~~

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#### ~~Sec. 1-86, - Changes in previously adopted ordinances.~~

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~~In compiling and preparing the ordinances of the Town for adoption and revision as part of the Code, certain grammatical changes and other minor changes were made in one (1) or more of said ordinances. It is the intentionintent of the Board of Trustees that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.~~

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~~(Ord. 92-04 §1)~~

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#### ~~Sec. 1-9, - Effective date.~~

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~~This Code shall become effective on the date the ordinance codified in this Chapter, adopting this Code as the Green Mountain Falls Municipal Code, becomes effective.~~

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~~Secs. 1-7—1-10—1-20, - Reserved.~~

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### ~~ARTICLE II - Definitions, Usage and Interpretation~~

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#### ~~Sec. 1-2411, - Definitions.~~

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~~In the construction of the Code and of all ordinances of the Town, theThe following definitions and rules of constructionwords and phrases, whenever used in this Code, shall be observed, construed as defined in this Section unless it shall be otherwise expressly provided in any section or ordinances;a~~

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different meaning is intended from the context or unless inconsistent with the manifest intent of the ordinance; a different meaning is specifically defined and more particularly directed to the use of such words or phrases;

(1)— ~~Board of Trustees~~ means the Board of Trustees of the Town of Green Mountain Falls.

(2)— ~~Code~~ means the ~~Code of the Town of Green Mountain Falls~~ *Municipal Code*, as published and subsequently amended, unless the context requires otherwise.

(3)— ~~Computation of time~~ means the time within which an act is to be done, excluding the first and including the last day; but if the time for an act to be done shall fall on Sunday or a legal holiday, the act shall be done upon the day following such Sunday or legal holiday.

(4)— ~~(3)~~ ~~County~~ means ~~the El Paso County of El Paso, Colorado and Teller County, Colorado~~, unless otherwise specified to mean only one of these counties.

(5)— ~~4~~ *C.R.S.* means Colorado Revised Statutes, including all amendments thereto.

(6)— ~~5~~ *Day* refers to the period of time between any midnight and the midnight following.

(7)— ~~6~~ *Daytime* and *nighttime*. *Daytime* is the period of time between sunrise and sunset. *Nighttime* is the period of time between sunset and sunrise.

(8)— ~~7~~ *In the Town shall mean means* and *include includes* all territory over which the Town now has, or shall hereafter acquire, the jurisdiction for the exercise of its police powers or other regulatory powers.

(9)— ~~8~~ *Law* denotes applicable federal law, the constitution and statutes of the State, the ordinances of the Town and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

(10)— ~~May~~ is permissive.

(11)— ~~Misdemeanor~~ (9) ~~Month~~ means and is to be construed as meaning violation and is not intended to mean crime or criminal conduct.

(12)— ~~Month~~ shall mean a calendar month.

(13)— ~~10~~ *Oath* shall be construed to include an affirmation 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*.

(14)— ~~11~~ *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.

(15)— ~~12~~ *Owner*, when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

(16)— ~~13~~ *Person* shall include means a firm, natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, association business,

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~~trust or other organization acting as a group, or unit as well as an individual. the manager, lessee, agent, servant, officer or employee of any of them,~~

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~~(17)—(14) Preceding and following shall mean next before and next after, respectively.~~

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~~(18)—(15) Property shall include real, tangible and intangible personal property.~~

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~~(19)—(16) Public way shall include any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.~~

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~~(20)—(17) Real property shall include lands, tenements and hereditaments.~~

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~~(21) Shall is mandatory.~~

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~~(22)—(18) Sidewalk means the portion of the street between the curb line and the adjacent property line, intended for the use of pedestrians.~~

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~~(23)—(19) State shall be construed to mean means the State of Colorado.~~

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~~(24)—(20) Street means and includes any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.~~

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~~(25)—(21) Tenant or occupant, applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.~~

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~~(26)—(22) Town means the Town of Green Mountain Falls, Colorado.~~

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~~(27) Written includes printed, typewritten, mimeographed or multigraphed.~~

~~(28)—(23) Written means any representation in words, letters or figures, whether by printing or otherwise reproduced in permanent visible form.~~

~~(24) Year shall mean a calendar year, unless otherwise expressed.~~

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~~(Prior code 1-1-2; Ord. 92-04 §1)~~

## ~~Sec. 1-2212. - Usage of terms.~~

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~~(a)— All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning.~~

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~~(b)— When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.~~

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~~(Prior code 1-1-2; Ord. 92-04 §1)~~

## ~~Sec. 1-23. - Grammatical interpretation.~~

~~The following grammatical rules shall apply in the ordinances of the Town:~~

(1) — Gender. Every word in any ordinance importing the masculine ~~(c)~~ Any gender shall extend to and be applied to females as well as males, and associations and bodies corporate as well as individuals shall be included. includes other genders.

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(2) — Singular and plural. The ~~(d)~~ When not inconsistent with the context, words in the plural number include the singular number ~~includes the plural and, and words in the singular number include the plural includes the singular. number.~~

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(3) — Tenses. ~~(c)~~ The terms *shall* and *must* are mandatory, and the term *may* is permissive.

(f) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.

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(4) Use Sec. 1-13. – Computation of wordtime.

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Except as provided by applicable State law, in computing a period of days, the first day is excluded and phrases. Words and phrases not specifically defined the last day is included. However, if the last day of any period is a Saturday, Sunday or legal holiday, the period shall be construed according extended to the context and approved usage of the language. include the next day which is not a Saturday, Sunday or legal holiday.

(Prior code 1-1-2; Ord. 92-04 §1)

Secs. 1-2414 – 1-4020. - Reserved.

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## ARTICLE III - General

Sec. 1-4121. - Titles and headings not part of ordinance.

The title of any section or subsection of this Code shall not be deemed to in any way restrict, qualify or limit the effect of the provisions set forth and contained in such section or subsection. Chapter and Article titles, headings and titles of sections and other divisions in the Code or in subsequent supplements may be inserted in supplements to the Code for the convenience of persons using the Code, and are not part of the ordinances.

(Prior code 1-1-2; Ord. 92-04 §1)

Sec. 1-42. — Authorized acts.

When an ordinance requires an act to be done which may as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(Prior code 1-1-2)

Sec. 1-43. — Prohibited acts.

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~~Whenever in Town ordinances 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. 92-04 §1)

**Sec. 1-4422. - Repeal shall not revive any ~~ordinances~~ ordinance.**

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

(Ord. 92-04 §1)

**Sec. 1-4523. - Publication of ordinances.**

All ordinances, as soon as may be possible after their passage, shall be recorded in a book kept for that purpose and authenticated by the signature of the Mayor or the Town Clerk. All ordinances of a general or permanent nature and those imposing any fine, penalty or forfeiture shall be published in a newspaper of general circulation in the Town. Such ordinances shall not take effect until thirty (30) days after such publication, except for ordinances calling for special elections or necessary for the immediate preservation of the public peace, health or safety, which shall be set forth in a separate section.

(Prior code 2-2-2)

**Sec. 1-24. - Copy of Code on file.**

This 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.

**Sec. 461-25. - Severability.**

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

(Prior code 1-1-4)

**Sec. 1-4726. - Amendments.**

Any additions or amendments to this Code shall be adopted as ordinances as required by state law, and when passed in such form as to indicate the intention to make the same a part thereof, shall be incorporated into this Code so that reference to it as *Green Mountain Falls Municipal Code* shall be understood as including such additions or amendments.

(Prior code 1-1-3)

**Sec. 1-4827. - Certification of Code.**

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The Mayor and Town Clerk shall carefully examine at least one (1) copy of the Code adopted by this ordinance to see that it is a true and correct copy of the Code. The copy of the Code as originally adopted or amended, certified and sealed 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. 92-04 §1)

#### Sec. 1-4928. - Supplementation of Code.

(a) — The Board of Trustees shall cause supplementation of the 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 the 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 (1) certified copy of the book containing the Code required to be filed in the office of the Town Clerk for the use of the public.

(Ord. 92-04 §1)

#### Sec. 1-50. - Sale of Code books.

Copies of the 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. 92-04 §1)

#### Sec. 1-51. - Altering or tampering with Code; penalties for violation.

Any person who shall alter, change or amend this Code, except in the manner prescribed in this Article, or who shall alter or tamper with the Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby shall, upon conviction thereof, be punishable as provided by Section 1-72.

(Ord. 92-04 §1)

#### Secs. 1-5229—1-7040. - Reserved.

### ARTICLE IV - General Penalty

#### Sec. 1-7141. - Violations.

It is a violation of this Code for any person to do any act which is forbidden or declared to be unlawful, or to fail to do or perform any act required, in this Code.

(Ord. 92-04 §1)

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**Sec. 1-7242. - General penalty, continuing violations.**

Any person who shall violate or fail to comply with any provision of any Chapter of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punishable by a fine not exceeding one thousand six hundred and fifty dollars (\$1,000.00), or by imprisonment not exceeding one year or by both such fine and imprisonment, except as hereinafter provided in Section 1-73, and in addition, such person, shall pay all costs and expenses in the case, including attorney fees. Each day such violation continues shall be considered a separate offense.

~~(Ord. 92-04 §1)~~

**Sec. 1-7343. - Application of penalties to juveniles.**

Every person who, at the time of commission of the offense, was at least ten (10) but not yet\* eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Chapter Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code.

~~(Ord. 92-04 §1)~~

**Sec. 1-7444. - Penalty for violations of ordinances adopted after adoption of Code.**

Any person who shall violate 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 the Code by a supplement, shall, upon conviction thereof, be punishable as provided by Section 1-72(b), unless another penalty is specifically provided for the violation.

**Sec. 1-45. - Prohibited acts.**

Whenever in Town ordinances 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. 92-04 §1)~~

**Sec. 1-46. - Altering or tampering with Code; penalties for violation.**

Any person who alters, changes or amends this Code, except in the manner prescribed in this Chapter, or who alters or tampers with the Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby shall, upon conviction thereof, be punishable as provided by Section 1-42.

~~Secs. 1-7547—1-9050.~~ - Reserved.



## ARTICLE V - Inspections

### Sec. 1-91~~51~~. - Entry.

Whenever necessary to make an inspection to enforce any ordinance, or whenever there is probable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the Town, any 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~~ such person 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. 92-04 §1)

### Sec. 1-92~~52~~. - Authority to enter premises under emergency.

Law enforcement officers certified with the State, members of the Green Mountain Falls 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 or occupants of the residence at any time such person has reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant or occupants of such premises are incapable of consenting to the entry because of such medical emergency.

(Ord. 92-04 §1)

~~Secs. 1-53 — 1-93 — 1-110~~60. - Reserved.

## ARTICLE VI - Seal

### Sec. 1-111~~61~~. - 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 Green Mountain Falls, Colorado," ~~shall be and is~~ hereby is ~~declared established~~ to be the Seal of the Town.

(Ord. 92-04 §1)

~~Secs. 1-112 — 1-130. - Reserved.~~

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## **CHAPTER 1 - General Provisions**

### **ARTICLE I - Code**

#### **Sec. 1-1. - Adoption of Code.**

The published code known as the *Green Mountain Falls Municipal Code*, of which one (1) 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.

#### **Sec. 1-2. - 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.

#### **Sec. 1-3. - Repeal of ordinances not contained in Code.**

All existing ordinances and portions of ordinances of a general and permanent nature adopted by the Board of Trustees are included herein. Any ordinances or portions of ordinances not included in this Code which are inconsistent with the provisions of this Code are specifically repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided..

#### **Sec. 1-4. - Matters not affected by repeal.**

The repeal of ordinances and parts of ordinances of a permanent and general nature by **Section 1-3** 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 were repealed.

#### **Sec. 1-5. - Ordinances saved from repeal.**

The continuance in effect of temporary or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom, and the adoption of the 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, vacating or closing specific streets, alleys and other public ways.
- (2) Naming or changing the names of specific streets and other public ways.
- (3) Establishing the grades of specific streets and other public ways.
- (4) Establishing the grades or lines of specific sidewalks.
- (5) Authorizing or relating to specific issuances of general obligation bonds.
- (6) Creating specific sewer and paving districts and other local improvement districts.
- (7) Authorizing the issuance of specific local improvement district bonds.

- (8) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.
- (9) Annexing territory to or disconnecting territory from the Town.
- (10) Dedicating or accepting any specific plat or subdivision.
- (11) Calling or providing for a specific election.
- (12) Authorizing specific contracts for purchase of beneficial use of water by the Town.
- (13) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.
- (14) Authorizing a specific lease, sale or purchase of property.
- (15) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
- (16) Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.
- (17) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.
- (18) Setting rates, tolls and charges for any water, sewer, utility or proprietary fee, unless otherwise specifically set forth in this Code.
- (19) Appropriating money.
- (20) Levying a temporary tax or fixing a temporary tax rate.
- (21) Relating to salaries or other employment conditions for Town officers and employees.
- (22) Amending the Official Zoning Map.

#### **Sec. 1-6. - Changes in previously adopted ordinances.**

In compiling and preparing the ordinances of the Town for adoption and revision as part of the Code, certain grammatical changes and other minor changes were made in one (1) or more of said ordinances. It is the intent of the Board of Trustees that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

**Secs. 1-7—1-10. - Reserved.**

## **ARTICLE II - Definitions, Usage and Interpretation**

### **Sec. 1-11. - Definitions.**

The following words and phrases, whenever used in this Code, 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:

- (1) *Board of Trustees* means the Board of Trustees of the Town of Green Mountain Falls.
- (2) *Code* means the *Green Mountain Falls Municipal Code*, as published and subsequently amended, unless the context requires otherwise.
- (3) *County* means El Paso County, Colorado and Teller County, Colorado, unless otherwise specified to mean only one of these counties.
- (4) *C.R.S.* means Colorado Revised Statutes, including all amendments thereto.
- (5) *Day* refers to the period of time between any midnight and the midnight following.
- (6) *Daytime* and *nighttime*. *Daytime* is the period of time between sunrise and sunset. *Nighttime* is the period of time between sunset and sunrise.
- (7) *In the Town* means and includes all territory over which the Town now has, or shall hereafter acquire, the jurisdiction for the exercise of its police powers or other regulatory powers.
- (8) *Law* denotes applicable federal law, the constitution and statutes of the State, the ordinances of the Town and, when appropriate, any and all rules and regulations which may be promulgated thereunder.
- (9) *Month* means a calendar month.
- (10) *Oath* shall be construed to include an affirmation 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*.
- (11) *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.
- (12) *Owner*, when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.
- (13) *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.
- (14) *Preceding* and *following* mean next before and next after, respectively.
- (15) *Property* shall include real, tangible and intangible personal property.

- (16) *Public way* shall include any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.
- (17) *Real property* shall include lands, tenements and hereditaments.
- (18) *Sidewalk* means the portion of the street between the curb line and the adjacent property line, intended for the use of pedestrians.
- (19) *State* means the State of Colorado.
- (20) *Street* means and includes any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.
- (21) *Tenant* or *occupant*, applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.
- (22) *Town* means the Town of Green Mountain Falls, Colorado.
- (23) *Written* means any representation in words, letters or figures, whether by printing or otherwise reproduced in permanent visible form.
- (24) *Year* shall mean a calendar year, unless otherwise expressed.

**Sec. 1-12. - Usage of terms.**

- (a) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning.
- (b) When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.
- (c) Any gender includes other genders.
- (d) When not inconsistent with the context, words in the plural number include the singular number, and words in the singular number include the plural number.
- (e) The terms *shall* and *must* are mandatory, and the term *may* is permissive.
- (f) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.

**Sec. 1-13. – Computation of time.**

Except as provided by applicable State law, in computing a period of days, the first day is excluded and the last day is included. However, if the last day of any period is a Saturday, Sunday or legal holiday, the period shall be extended to include the next day which is not a Saturday, Sunday or legal holiday.

**Secs. 1-14—1-20. - Reserved.**

### **ARTICLE III - General**

#### **Sec. 1-21. - Titles and headings not part of ordinance.**

The title of any section or subsection of this Code shall not be deemed to in any way restrict, qualify or limit the effect of the provisions set forth and contained in such section or subsection. Chapter and Article titles, headings and titles of sections and other divisions in the Code or in subsequent supplements may be inserted in supplements to the Code for the convenience of persons using the Code, and are not part of the ordinances.

#### **Sec. 1-22. - Repeal shall not revive any ordinance.**

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

#### **Sec. 1-23. - Publication of ordinances.**

All ordinances, as soon as may be possible after their passage, shall be recorded in a book kept for that purpose and authenticated by the signature of the Mayor or the Town Clerk. All ordinances of a general or permanent nature and those imposing any fine, penalty or forfeiture shall be published by title in a newspaper of general circulation in the Town. Such ordinances shall not take effect until thirty (30) days after such publication, except for ordinances calling for special elections or necessary for the immediate preservation of the public peace, health or safety, which shall be set forth in a separate section.

#### **Sec. 1-24. - Copy of Code on file.**

This 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.

#### **Sec. 1-25. - Severability.**

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

#### **Sec. 1-26. - Amendments.**

Any additions or amendments to this Code shall be adopted as ordinances as required by state law, and when passed in such form as to indicate the intention to make the same a part thereof, shall be incorporated into this Code so that reference to it as *Green Mountain Falls Municipal Code* shall be understood as including such additions or amendments.

#### **Sec. 1-27. - Certification of Code.**

The Mayor and Town Clerk shall carefully examine at least one (1) copy of the Code adopted by this ordinance to see that it is a true and correct copy of the Code. The copy of the Code as originally adopted or amended, certified and sealed shall constitute the permanent and general ordinances of the Town and shall be so accepted by the courts of law, administrative tribunals and all others concerned.

#### **Sec. 1-28. - Supplementation of Code.**

(a) The Board of Trustees shall cause supplementation of the 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 the Code prior to the supplementation and since the previous supplementation, shall be included.

(b) It shall be the duty of the Town Clerk to keep up to date the one (1) certified copy of the book containing the Code required to be filed in the office of the Town Clerk for the use of the public.

**Secs. 1-29—1-40. - Reserved.**

### **ARTICLE IV - General Penalty**

#### **Sec. 1-41. - Violations.**

It is a violation of this Code for any person to do any act which is forbidden or declared to be unlawful, or to fail to do or perform any act required in this Code.

#### **Sec. 1-42. - General penalty, continuing violations.**

Any person who shall violate or fail to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punishable by a fine not exceeding two thousand six hundred and fifty dollars (\$2,650.00), or by imprisonment not exceeding one year or by both such fine and imprisonment, except as hereinafter provided in **Section 1-43**, and in addition, such person, shall pay all costs and expenses in the case, including attorney fees. Each day such violation continues shall be considered a separate offense.

#### **Sec. 1-43. - Application of penalties to juveniles.**

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code.

#### **Sec. 1-44. - Penalty for violations of ordinances adopted after adoption of Code.**

Any person who shall violate 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 the Code by a supplement, shall, upon conviction thereof, be punishable as provided by **Section 1-42 or 1-43**, unless another penalty is specifically provided for the violation.

#### **Sec. 1-45. - Prohibited acts.**

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

#### **Sec. 1-46. - Altering or tampering with Code; penalties for violation.**

Any person who alters, changes or amends this Code, except in the manner prescribed in this Chapter, or who alters or tampers with the Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby shall, upon conviction thereof, be punishable as provided by **Section 1-42**.

**Secs. 1-47—1-50. - Reserved.**

### **ARTICLE V - Inspections**

#### **Sec. 1-51. - Entry.**

Whenever necessary to make an inspection to enforce any ordinance, or whenever there is probable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the Town, any 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 such person 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.

**Secs. 1-52—1-60. - Reserved.**

### **ARTICLE VI - Seal**

#### **Sec. 1-61. - 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 Green Mountain Falls, Colorado," is hereby established to be the Seal of the Town.



## CHAPTER 2 - Administration and Personnel

### ARTICLE I - Elections

#### Sec. 2-1. - Election procedure.

Each regular election ~~shall be~~ held on the first Tuesday in April in even-numbered years and all special elections called by the Board of Trustees for any purpose shall be in the manner prescribed by the Colorado Municipal Election Code, ~~current edition~~ C.R.S. § 31-10-101, *et seq.*, as amended.

(Prior code 4-1-1)

#### Sec. 2-2. - Write-in ~~candidate's~~ candidate affidavit.

No write-in vote for ~~any~~ Town office shall be counted unless an affidavit of intent has been filed with the Town Clerk, by the person who desires the office and is qualified to assume the duties of that office if elected. The affidavit of intent shall be filed with the Town Clerk no later than sixty-four (64) days before the day of the election as set forth in ~~Section~~ C.R.S. § 31-10-306, ~~C.R.S.~~ as amended.

(Ord. 92-04 §1; Ord. No. 09-2017, § 1, 12-5-2017)

#### Secs. 2-3—2-2010. - Reserved.

### ARTICLE II - Mayor and Board of Trustees

#### Sec. 2-2411. - Composition; eligibility and term of office; power.

(a) — ~~The corporate authority of the Town is by state law vested in a Board of Trustees, consisting of one (1) Mayor and six (6) Trustees, who shall be qualified electors residing within the limits of the corporation. The Mayor is elected for a two-year term. In the regular municipal election to be held in April 2002, six (6) Trustees shall be elected. The three (3) candidates for Trustee receiving the highest number of votes shall be elected for four-year terms, and the three (3) candidates for Trustee receiving the next highest number of votes shall be elected for two-year terms. At each regular election thereafter, three (3) Trustees shall be elected to serve four-year terms. The Board of Trustees constitutes the legislative body of the Town, shall have 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.~~

(b) — ~~The~~ Each Trustee shall be a qualified elector and resident of the Town who has resided in the Town for a period of at least twelve (12) consecutive months immediately preceding the election, and is otherwise eligible to hold municipal office pursuant to law. If any Trustee shall move from or become, during the term of their office, a nonresident of the Town, they shall be deemed thereby to have vacated their office, upon the adoption by the Board of Trustees is hereby given the power to of a resolution declaring such vacancy to exist.

(c) The Mayor is elected for a two-year term. At each regular election, three (3) Trustees shall be elected to serve four-year terms.

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(d) ~~No elected Mayor shall serve more than three (3) consecutive two-year terms in office.~~

(e) ~~No elected Trustee shall serve more than two (2) consecutive four-year terms in office.~~

(f) ~~The Board of Trustees may appoint such other officers as it may deem~~deems necessary for the good government of the ~~corporation~~Town, and may prescribe their duties and fix their compensation.

(c) ~~No elected Mayor shall serve more than four (4) consecutive two-year terms in office.~~

(d) ~~No elected Trustee shall serve more than two (2) consecutive four-year terms in office.~~

(Prior code 2-1-1; Ord. 2001-03 §1; Ord. 01-2002 §1)

**Sec. 2-22. Duties of 12. - Mayor.**

(a) ~~The Mayor shall preside over the meeting of the Board of Trustees, and shall perform such duties as may be required of him or her~~by statute or ordinance.

(b) ~~Insofar as required by statute, and for all ceremonial purposes, the~~The Mayor shall be the executive head of the Town. ~~He or she~~The Mayor, shall be the presiding officer of the Board of Trustees and shall vote on all matters before the Board of Trustees.

(c) ~~The Mayor shall execute and authenticate by his or her~~their signature such instruments as the Trustees or any statutes or ordinances shall require.

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

(Prior code 2-1-2)

(e) ~~In the absence of the Town Manager, the Mayor may assume any duty assigned to the Town Manager.~~

**Sec. 2-2313. - Mayor Pro Tem.**

~~At its first meeting following each biennial election, the Board of Trustees shall choose one (1) of the Trustees as Mayor Pro Tem who, in the absence of the Mayor from any meeting of the Board of Trustees or during the Mayor's absence from the Town, or his or her~~the Mayor's inability to act, shall perform the duties of Mayor.

(Prior code 2-1-3)

**Sec. 2-2414. - Acting Mayor.**

~~In the event of absence or disability of both the Mayor and Mayor Pro Tem, the Trustees may designate another of its members to serve as Acting Mayor during such absence or disability.~~

(Prior code 2-1-4)

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~~Sec. 2-25. Board~~ **15. - Removal of Trustees; qualifications, vacancies.**

(a) ~~The Board of Trustees shall constitute the legislative body of the Town, shall have 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.~~

(b) ~~Each~~ **Trustee.**

By a majority vote of all members of the Board of Trustees, any member of the Board of Trustees may be removed from office pursuant to the provisions and procedures provided by law.

~~Sec. shall be a resident of the Town who has resided in the Town for a period of at least twelve (12) consecutive months immediately preceding the election, and is otherwise eligible to hold municipal office pursuant to law. If any Trustee shall move from or become, 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, upon the adoption by the Board of Trustees of a resolution declaring such vacancy to exist.~~

(c) ~~In case of death, resignation, vacation~~ **2-16. - Vacancies.**

(a) ~~In case of death, resignation, or removal for cause of any of the Trustees during their term of office, the Board of Trustees, by a majority vote of all the members thereof, may select and appoint from among the duly qualified electors of the Town a suitable person to fill the vacancy, who shall hold the office until the next biennial Town election.~~

~~(Prior code 2-2-1; Ord. 92-04 §1)~~

(b) ~~The Board of Trustees also has the power to fill a vacancy on the Board by ordering a special election, subject to the requirements of the Colorado Municipal Election Code, to fill the vacancy until the next regular election and until a successor has been elected and has complied with C.R.S. § 31-4-401.~~

~~Sec. 2-26. Removal of officers.~~

~~By a majority vote of all members of the Board of Trustees, any member of the Board of Trustees may be removed from office pursuant to the provisions and procedures provided by law.~~

~~(Ord. 92-04 §1)~~

**2-17. - Compensation.** ~~Sec. 2-27. Elected officials, salaries.~~

~~There shall be no salary or compensation for elected officials of the Town.~~

~~(Prior code 2-5-1)~~

**Sec. 2-2818. - Regular and special meetings.**

(a) ~~Regular Meetings. All regular meetings of the Board of Trustees shall be held at Town Hall; 10615 Green Mountain Falls Road; Green Mountain Falls, Colorado, or at such other places as determined by Board of Trustees. Regular meetings of the Board of Trustees shall be held~~

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monthly on the first Tuesday of each month, commencing at 7:00 p.m., or at such other dates and times as determined by the Board of Trustees.

(b) ~~Special Meetings.~~ Special meetings shall be called by the Clerk on the written request of the Mayor or any three members of Board of Trustees on at least twenty-four (24) hours written notice to each member of Board of Trustees; but a special meeting may be held on shorter notice if all members of Board of Trustees are present or have waived notice thereof in writing. No business shall be transacted at any special meeting of Board of Trustees unless the same has been stated in notice of such meeting.

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~~(Prior code 2-2-2; Ord. 92-04 §1; Ord. No. 2019-06, § 1, 2-3-2019)~~

#### **Sec. 2-~~29~~19. - Quorum.**

No action shall be taken unless a quorum is present. A majority of the Board of Trustees shall constitute a quorum. The Mayor shall be considered a Trustee for purposes of determining a quorum. ~~A lesser number may adjourn from time to time and compel the attendance of absent members. Any member of the Board of Trustees, at any regular or special meeting, may, in writing, demand the attendance of the absent members, which said demand shall be entered on the record forthwith by the Town Clerk, who shall thereupon notify the absent members of the time and place of the meeting.~~

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~~(Prior code 2-2-2)~~

#### **Sec. 2-~~30~~20. - Agenda, Board packets, and confidential materials.**

(a) All reports, communications, proposed ordinances, proposed resolutions, contracts, documents or other matters to be submitted to the Board of Trustees for discussion shall be delivered to the Town Clerk no later than 4:30 p.m. on the Thursday prior to the regular Town Board of Trustees meeting.

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(b) At the discretion of the Town Clerk, items submitted after the deadline may be added to the Board packets and placed on the agenda. If the item is not placed on the agenda for the current meeting, the item will be deemed timely submitted for the following meeting and will be placed on the following meeting's agenda.

(c) The Town Clerk shall arrange a list of matters according to the order of business as described in ~~Section 2-34~~, thereby creating the agenda. A complete copy of the Board packet shall be emailed, ~~and/~~ or mailed via U.S. Mail to each Trustee, the Town Manager, and the Town Attorney no later than the Friday preceding the meeting. The Board packet shall consist of the agenda, all materials for agenda matters, a copy of the draft minutes of the last preceding meeting, if available. Failure to receive the entire Board packet according to the provisions herein shall be cause for any trustee to move to table a matter until the next meeting.

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(c) The Town Clerk shall post copies of the agenda and the Board packet, except materials marked "confidential", to the Town's website no later than the close of business on the Friday preceding the meeting.

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(d) Any Trustee, the Town Manager, ~~and/or~~ the Town Attorney may mark any document "confidential" prior to submission to the ~~clerk~~ Town Clerk. Any document marked

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~~"Confidential"~~confidential shall remain confidential until its confidentiality is rescinded by the original submitter. Any dissemination by any Trustee, the Town Manager, or the Town Attorney of materials marked "confidential," via social media, publication in print or electronic form, or otherwise, shall be a violation of this Code and subject to sanctions by the majority of the Board including, ~~but not limited to, without limitation~~ censure ~~and~~ or removal of office.

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(Prior code 2-2-2; Ord. 92-04 §1; Ord. No. 01-2014, § 1, 2-18-2014)

**Editor's note** — Ord. No. 01-2014, § 1, adopted Feb. 18, 2014, changed the title of § 2-30 from "Agenda" to read as herein set out.

## **Sec. 2-~~31~~21. - Order of business.**

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The order of business of a Board of Trustees meeting shall be as follows, unless otherwise determined by the Mayor:

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(1) — Call to order. The Mayor shall take the chair precisely at the hour appointed for the meeting and shall immediately call the Board of Trustees to order. The Mayor or temporary chairman shall preserve the order and decorum, decide all questions of order and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order unless otherwise provided by ordinance.

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(2) — Roll call. Before proceeding with the business of the Board of Trustees, the Town Clerk shall call the roll of the members, and the names of those present shall be entered in the minutes.

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(3) — Reading the minutes. Unless a reading of the minutes of a Board meeting is requested by a member of the Board of Trustees, the minutes of the preceding meeting, which have been furnished by the Town Clerk to each Trustee, shall be considered approved if correct, and errors rectified if any exist.

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(4) — Reports by officers. Town officials and ~~or~~ committees shall present such reports as may be required by the Board of Trustees.

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(5) — Old business. The Board of Trustees shall consider any business that has been previously considered and which is still unfinished.

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(6) — New business. The Board of Trustees shall consider any business not heretofore considered, including the introduction or readings of ordinances and resolutions.

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(7) — Petitions. Petitions, remonstrances, communications and comments or suggestions from citizens present shall be heard by the Board of Trustees. All such remarks shall be addressed to the Board of Trustees as a whole, and not to any member thereof. Such remarks shall be limited to a reasonable time and such determination will be in the discretion of the presiding officers. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer.

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(8) — Other business. Prior to adjournment, the Board of Trustees shall, as it deems necessary, consider such business as is not specifically provided for herein.

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(9) — ~~Adjournment.~~ The Board of Trustees may, by a majority vote of those present, adjourn from time to time to a specific date and hour. A motion to adjourn shall always be in order and decided without debate.

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~~(Prior code 2-2-2)~~

**Sec. 2-~~3222~~. - Resolution or motion required; roll call vote.**

Every subject coming before the Board of Trustees for its action shall be submitted by resolution or motion. The Town Clerk shall call the roll and the vote thereon shall be taken by ayes and nays or, at the option of the Mayor, a voice vote may be taken.

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~~(Prior code 2-2-2)~~

**Sec. 2-~~3323~~. - Adoption of ordinances.**

(a) — ~~The procedure for passing emergency ordinances necessary for the preservation of public property, health, welfare, peace, or safety is as follows:~~

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(1) — ~~An emergency ordinance may be introduced at any regular or special meeting of the Board of Trustees by any member thereof.~~

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(2) — ~~The emergency ordinance shall be read in full.~~

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(3) — ~~If state law requires a public hearing prior to the adoption of any emergency ordinance, the Board shall set the matter for a public hearing.~~

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(4) — ~~An emergency ordinance shall become effective upon an affirmative vote of three-fourths (¾) of the members of the Board of Trustees.~~

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(b) — ~~The procedure for passing all other ordinances is as follows:~~

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(1) — ~~An ordinance may be introduced at any regular meeting of the Board of Trustees by any member thereof.~~

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(2) — ~~No ordinance may be passed finally on the date it is introduced.~~

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(3) — ~~Prior to the adoption of the ordinance, the Board shall hold a workshop at which public comment shall be heard.~~

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(4) — ~~At a subsequent regular meeting of the Board of Trustees:~~

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a. — ~~The ordinance shall be read in full, unless copies of the ordinance were made available to the public prior to the meeting and a majority of the Board members present vote to only read the title of the proposed ordinance;~~

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b. — ~~After the reading of the ordinance, by title or in full, the Board shall hold a public hearing at which allow public comment shall be heard;~~

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c. — ~~(3) After hearing public comment in a public hearing, the ordinance may be approved with or without amendment or rejected by a vote of the Board.~~

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~~(5) — 4)~~ If the ordinance is approved by a majority of the Board members present, it shall be published in accordance with State law and said ordinance shall become effective thirty (30) days after publication.

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~~(Prior code 2-2-2; Ord. No. 2-17-2015A, § 1, 3-17-2015; Ord. No. 6-16-2015B, § 1, 6-16-2015)~~

#### **Sec. 2-~~34~~24. - Committees.**

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Any question pending before the Board of Trustees may be referred to the appropriate committee, or to a special committee for its consideration and report. When a question has been referred to a committee, such committee shall report thereon with its recommendation at the next meeting of the Board of Trustees.

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#### **Sec. 2-35. ~~Suspension of the rules.~~**

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~~Any of the provisions of this Section may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths (¾) of the members present, except that this shall not be construed to permit any action that is contrary to state statute.~~

~~(Prior code 2-2-2)~~

#### **Sec. 2-36. ~~Intergovernmental contracts.~~**

~~The Board of Trustees shall have the authority on behalf of the Town to enter into contractual arrangements with one (1) or more other local governments for the performance of any governmental service, activity or undertaking which could be performed by each of the local governments. Any such contract shall set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the contracting parties. Such contract may be approved by the Board of Trustees by resolution or by ordinance.~~

~~(Prior code 2-2-3)~~

#### **Sec. 2-~~37~~25. - Oath and bond.**

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All officers elected or appointed in any capacity shall take an oath to support the Constitution of the United States and the Constitution of the State. The Board of Trustees may provide that the payment of premiums on surety bonds of any officer of the Town shall be made by the Town Treasurer from funds so designated by the Board of Trustees.

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~~(Prior code 2-2-4)~~

#### **Sec. ~~2-26~~2-38. ~~Removal from office.~~**

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~~Any officer or employee appointed by the Board of Trustees may be removed from office or suspended for a specific time, with or without pay, by a majority vote of all Board of Trustee members whenever such officer shall, after a hearing before the Board of Trustees, be found guilty of a dereliction or violation of his or her duty, conduct unbecoming an officer or incompetency.~~

(Prior code 2-2-5)

**Sec. 2-39. - Work sessions.**

(a) — Work Session Board of Trustees Meetings -The Board of Trustees may meet informally on third Tuesday of each month, or at other times upon call of the Mayor or at the request of three members of the Board of Trustees to discuss matters pending or proposed.

(b) — The Town Manager or Clerk shall prepare the agenda, after consultation with the Mayor, for work sessions. All matters to appear on the agenda shall be filed with the Town Manager or Town Clerk no later than twelve noon the Wednesday prior to the work session.

(c) — Work sessions of the Board of Trustees are open to the press and public. No binding action may be taken at any work session. The Town Manger or Town Clerk, or his or her designee, shall keep brief minutes of work sessions.

(Ord. No. 2019-06, § 2, 2-3-2019)

**Secs. 2-27—2-40—2-50. - Reserved.**

**ARTICLE III - Hearings**

**Sec. 2-5141. - Purpose and applicability.**

The purpose of the rules of procedure contained in this Article is to provide a uniform, consistent and expeditious method of procedure for the conduct of all hearings held before the Board of Trustees and any other board, commission or official, hereinafter referred to as the hearing body, or shall be applied uniformly in all such hearings; provided, however, that any board, commission or official may supplement the provisions of this Article by the adoption of further rules of procedure not inconsistent herewith. All rules adopted to supplement the provisions of this Article by any board, commission or official shall be reduced to writing and copies thereof shall be made available to the public.

(Prior code 2-7-1)

**Sec. 2-5242. - Quasi-judicial hearings.**

The provisions of Sections 2-52 through 2-57this Article shall be applicable only to those hearings where the Board of Trustees, board, commission or official is called upon to exercise a power of a judicial or ~~quasijudicial~~quasi-judicial nature, which, for purposes of this Article, shall be deemed to consist of the following:

(1) — Hearings before the Board of Trustees upon application for the issuance, or hearings for the suspension or revocation of, liquor or fermented malt beverage licenses; upon ordinances which zone or rezone ~~realt~~real property; and upon all appeals from the decisions of any Town official, board or commission, where such an appeal is ~~otherwise~~ authorized, and which requires an evidentiary hearing to determine such appeal.

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(2) — ~~Hearings before the Board of Zoning Adjustment upon appeals from any decision of the Building Inspector or upon request for a variance or exception from the terms of any ordinance.~~

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(3) — ~~Hearings before any board, commission or official respecting the issuance, suspension or revocation of any license issued by the Town.~~

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~~(Prior code 2-7-2)~~

#### ~~Sec. 2-5343. - Rights of participants.~~

~~All quasi-judicial hearings shall be conducted under procedures designed to insure all interested parties due process of law and shall, in all cases, provide for the following:~~

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~~(1) — The administration of oaths to all parties or witnesses who appear for the purpose of testifying upon factual matters;~~

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~~(2) — The cross-examination, upon request, of all witnesses by the interested parties;~~

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~~(3) — (1) The stenographic or other verbatim reproduction of all testimony presented in the hearing, or an adequate summary of such testimony; and~~

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~~(4) — (2) A clear decision by the hearing body which shall set forth the factual bases and reasons for the decision rendered.~~

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~~(Prior code 2-7-3)~~

#### ~~Sec. 2-5444. - Order of procedure.~~

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~~(a) — In all quasi-judicial hearings, the following order of procedure shall be followed:~~

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~~(1) — Presentation of those documents showing the regularity of the commencement of the proceedings and the form of the public notice given;~~

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~~(2) — Presentation of evidence by Town staff if required or deemed necessary by the hearing body;~~

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~~(3) — Presentation of evidence by the applicant, petitioner, appealing party or complainant; and~~

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~~(3) — Presentation of evidence in support of the applicant, petitioner, appealing party or complainant by any other person;~~

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~~(4) — Presentation Opportunity for public comment, or presentation of evidence from any person opposing the application, petition, appeal or complaint; and~~

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~~(5) — Presentation of evidence in opposition to the various matters presented by the opposition by any interested party.~~

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~~(b) — All documents or other items of physical evidence shall be marked with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person.~~

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(Prior code 2-7-4)

**Sec. 2-5545. - Rules of evidence.**

The hearing body shall not be required to observe any formal rules of evidence, but may consider any matter which a majority thereof concludes is reasonably reliable and calculated to aid the hearing body in reaching an accurate determination of the issues involved.

(Prior code 2-7-5)

**Sec. 2-56. — Deliberation and notice2-46. - Notice of decisions.**

~~Each hearing body is hereby authorized to deliberate upon the issues presented at the hearing in private, nonpublic sessions; provided that no~~ No decision shall be effective except upon a vote of the members of the hearing body, conducted in an open session thereof, which shall be duly recorded in the minutes of the hearing body. Written copies of all decisions shall be delivered to the applicant, petitioner, appellant, complainant and other interested party requesting same.

(Prior code 2-7-6)

**Sec. 2-5747. - Judicial enforcement and review.**

~~Any party aggrieved by any decision rendered by the hearing body in any quasi-judicial hearing, as well as department heads, authorized officials of the Town or the Town itself,~~ may apply to have said decision reviewed by a court of competent jurisdiction, in accordance with the provisions of the Colorado Rules of Civil Procedure.

(Prior code 2-7-7)

**Sec. 2-5848. - Administrative hearings.**

All other hearings before the Board of Trustees or any board, commission or official shall be deemed to be administrative hearings, the purpose of which is to obtain information to enable the Board of Trustees to determine legislative policy or to enable any board, commission or official to make recommendations to the Board of Trustees in accordance with the provisions of **Sections 2-5949 through 2-6349** hereof and in such a manner so as to enable any person desiring to be heard a reasonable opportunity for the presentation of ~~his or her~~their views.

(Prior code 2-7-8)

**Sec. 2-5949. - Commencement of proceedings.**

All proceedings conducted pursuant to the provisions of this Article shall be commenced in the manner provided by the ordinance or statute governing the matter.

(Prior code 2-7-9)

**Sec. 2-6050. - Referral to hearing body.**

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Upon receipt by the Town Clerk or the secretary of any board, commission or other appropriate officer of the Town of any application, petition, notice of appeal, complaint or other instrument initiating a hearing, the same shall be referred to the Board of Trustees, board, commission or official having jurisdiction over the matter, and a date, time and place for hearing thereon shall be set by said Board of Trustees, board, commission or official, who shall direct public notice thereof to be given; provided, however, that the Board of Trustees or any board or commission may authorize its Town Clerk or secretary to set a date, time and place for hearing upon receipt of such instrument without the necessity for action by the Board of Trustees, board, commission or official.

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(Prior code 2-7-10)

#### **Sec. 2-~~61~~51. - Public notice.**

(a) Public notice of the date, time, place, and purpose for all public hearings ~~regarding the adoption of ordinances shall be posted at the Post Office and in a conspicuous place at Town Hall no later than three (3) calendar days after the Board of Trustees sets a public hearing and at least nine (9) calendar days before the public hearing.~~

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(b) ~~Public notice of the date, time, place, and purpose for all public hearings other than those regarding the adoption of ordinances,~~ shall be posted and published in accordance with State statute. If State statute does not specify the notice required, notice will at least be posted at the Post Office and in a conspicuous place at Town Hall no later than nine (9) calendar days before the public hearing.

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(Prior code 2-7-11; Ord. No. 9-1-2015B, § 1, 9-1-2015)

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#### **Sec. 2-~~62~~52. - Preserving order.**

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Each hearing body shall have the right to preserve order during the hearing and to take such steps, including the ejection of any disorderly or obstreperous person interfering with the proceedings, as may be necessary; and the hearing body may, prior to any presentations and as a condition to the taking of testimony or information from any person, require the registration of all persons desiring to be heard during the hearings. It may restrict the testimony of any person to the material issues pending before it and, to prevent duplicative or cumulative presentations, it may impose reasonable time restrictions on any person.

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#### **Sec. 2-~~63~~53. - Adjournments.**

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After commencement of any hearing, the hearing body may, if it is deemed necessary to obtain a full presentation, adjourn the hearing from time to time by publicly announcing the fact of such adjournment and the date, time and place when and where the adjourned hearing shall recommence, without the necessity of any further published notice thereof.

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**Secs. 2-54 - 2-64 - 2-8060. - Reserved.**

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#### **ARTICLE IV - Officers and Employees**

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**Sec. 2-8161. - Town manager appointment and duties-Manager.**

(a) — The Board of Trustees may appoint a Town Manager who shall hold office at the pleasure of the majority of the Board for an indefinite period. The Town Manager shall be selected solely on the basis of executive and administrative qualifications, with special emphasis on training and experience in municipal administration, and shall be compensated at a rate deemed appropriate by the Board of Trustees.

(b) — The purpose of the Office of Town Manager is to provide for the centralization of the administrative operations and responsibilities of the Town, with the Town Manager to be the administrative head of the Town government under the direction and control of the Board of Trustees, and who shall be responsible to the Trustees for the efficient conduct of said office.

(c) — The Mayor shall annually conduct a performance evaluation of the Town Manager and submit the same to the Board of Trustees for its review and approval.

(d) — The Town Manager is measured on performance in the areas of: financial administration, staff management, Board assistance, liaison activities, citizen communication; planning and economic development; and other special or project related activities.

(e) — The Town Manager shall nominate a department head or other senior employee of the Town to serve as acting Town Manager during the temporary disability or absence of the Town Manager. Such nominee, once confirmed by the Board of Trustees, shall perform the duties and exercise all the powers of the Town Manager during the period of disability or absence of the Town Manager, but shall receive no additional compensation therefor unless specifically authorized by the Board of Trustees. In the event of a vacancy in the position of Town Manager, an interim Town Manager may be appointed until the position is filled by regular appointment.

(f) — Within six (6) months of appointment, the Town Manager shall be required to establish and maintain residency within a twenty-five (25) mile radius of the Town Hall.

(g) — The Board of Trustees may assign the duties of the Town Clerk to the Town Manager.

~~(h) — The Town Manager shall be the chief administrative officer of the Town government and may head one (1) or more of the departments of the Town.~~ (h) — The Town Manager's functions and duties shall be as follows:

(1) — To be responsible to the Board of Trustees for the organization and efficient administration of all administrative departments of the Town, and to faithfully carry out directives and recommendations of the Board of Trustees in coordinating the administrative functions and operations of the various departments.

(2) — To supervise the enforcement of all laws and ordinances of the Town, save and except to the extent that the administration of such enforcement is confined to other officials by law or ordinance.

(3) — To appoint and discharge, subject to the review and consent of the Board of Trustees, the heads of Town departments, excepting any Town officer appointed by the Board of Trustees, such as the Municipal Court Judge and Town Attorney. The Town

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Manager shall also have the authority to employ, dismiss, suspend or discipline all departmental employees.

(4) — ~~To establish, subject to the approval of the Board of Trustees, appropriate personnel salary schedules and rules and regulations governing officers and employees of the Town.~~

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(5) — ~~To issue administrative regulations and outline general administrative procedures applicable to areas and departments within the Town Manager's supervision which are not in conflict with the laws of the State or other Town ordinances.~~

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(6) — ~~To recommend an annual budget to the Board of Trustees, administer the budget as finally adopted and keep the Board of Trustees fully advised at all times as to the financial condition of the Town, including providing an annual report of the Town's affairs and summary of operations of all departments.~~

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(7) — ~~To recommend to the Board of Trustees for its consideration proposed ordinances, changes in ordinances and such other regulatory measures as may be deemed necessary, and to attend Trustee meetings with the right to take part in discussion, but not to vote.~~

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(8) — ~~To supervise and be responsible for the purchase of all supplies, materials and equipment as authorized by the Board of Trustees for the various departments, divisions or services of the Town in a manner necessitated by and subject to the limitations imposed by law.~~

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(9) — ~~To serve as public relations officer of the Town, and in such capacity to investigate and adjust all complaints filed against any employee, department, division or service of the Town and to cooperate with all community organizations whose aim and purpose is to advance the best interests of the Town and its citizens.~~

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~~(Ord. No. 03-2017, § 2, 3-21-2017)~~

~~Editor's note — Ord. No. 03-2017, § 2, adopted March 21, 2017, repealed the former § 2-81, and enacted a new § 2-81 as set out herein. The former § 2-81 pertained to town clerk, appointment and derived from Prior code 2-3-1.~~

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~~Sec. 2-8262. - Town clerk, appointment and duties Clerk,~~

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~~(a) — The Board of Trustees at its first regular meeting after each biennial election shall appoint a Town Clerk, or may assign the duties of Town Clerk to the Town Manager. If a Town Clerk is appointed, the Clerk will be appointed at the first regular meeting of the Board after each biennial election.~~

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~~(b) — The Town Clerk's duties shall be as follows:~~

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~~(1) — To serve as Clerk to the Board of Trustees, to attend all meetings of the Board, and to keep a journal of all of its proceedings.~~

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~~(2) — To act as custodian of all of the Town's records, and all such records shall be open at all reasonable times for inspection by the electors of the Town.~~

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(3) — ~~To certify by his or her~~ the Town Clerk's signature all ordinances and resolutions enacted or passed by the Board of Trustees.

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(4) — ~~To maintain a supply of forms for all petitions required to be filed for any purpose provided by the Board of Trustees.~~

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(5) — ~~To countersign all warrants drawn on the Town treasury.~~

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(6) — ~~To be custodian of all bonds of all officers or employees of the Town.~~

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(7) — ~~To perform such other duties as may be prescribed by ordinance or at the direction of the Board of Trustees.~~

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~~(Ord. No. 03-2017, § 3, 3-21-2017)~~

~~Editor's note — Ord. No. 03-2017, § 3, adopted March 21, 2017, repealed the former § 2-82, and enacted a new § 2-82 as set out herein. The former § 2-82 pertained to town clerk, oath and bond and derived from Prior code 2-3-2.~~

~~Sec. 2-8363. - Town manager and town clerk, oath and bond.~~

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~~Before entering upon the duties of office, the Town Manager and the Town Clerk, if appointed, shall take an oath of office and furnish a surety bond in the amount of one hundred thousand dollars (\$100,000.00) conditioned upon the faithful discharge of their duties.~~

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~~(Ord. No. 03-2017, § 4, 3-21-2017)~~

~~Editor's note — Ord. No. 03-2017, § 4, adopted March 21, 2017, repealed the former § 2-83, and enacted a new § 2-83 as set out herein. The former § 2-83 pertained to town clerk, duties and derived from Prior code 2-3-3.~~

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~~Sec. 2-8464. - Town Attorney, appointment.~~

~~(a) The Board of Trustees at its first regular meeting after each biennial election shall appoint a qualified attorney at law as the Town Attorney and shall fix his or her compensation. In case a vacancy should occur in for such position. The Board of Trustees may appoint an individual or entity to the office of Town Attorney. The individual or entity appointed to the Board office of Trustees shall appoint a the Town Attorney for the unexpired term.~~

~~(Prior code 2-4-1)~~

~~shall provide legal services as an independent contractor pursuant to the terms of an agreement approved by the Board of Trustees. The Sec. 2-85. Town Attorney, duties.~~

~~(a) — shall serve at the pleasure of the Board of Trustees.~~

~~(b) The Town Attorney shall act as legal advisor to, and be attorney and counsel for, the Board of Trustees and shall be responsible solely to the Board of Trustees. The Town Attorney shall~~

advise any officer or department head of the Town in matters relating to ~~his or her~~ official duties when so requested by the Board of Trustees and shall file with the Town Clerk a copy of all written opinions given by ~~him or her~~ the Town Attorney.

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~~(b) — c)~~ The Town Attorney shall prosecute ordinance violations and shall conduct cases in Municipal Court for the Town. The Town Attorney shall file with the ~~Town Court~~ Clerk copies of such records and files relating thereto.

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~~(e) — d)~~ The Town Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to ~~him or her~~ the Town Attorney by the Board of Trustees and shall promptly give ~~his or her~~ their opinion as to the legal consequences thereof.

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~~(d) — e)~~ The Town Attorney shall call to the attention of the Board of Trustees all matters of law, and changes or developments therein, affecting the Town.

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~~(e) — f)~~ The Town Attorney shall perform such other duties as may be prescribed for ~~him or her~~ such person by the Board of Trustees.

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~~(Prior code 2-4-2)~~

#### ~~Sec. 2-86.5. - Appointed officers and employees, salaries.~~

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All appointed officers and employees of the Town shall receive such salary as shall be established by the Board of Trustees.

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~~(Prior code 2-5-2)~~

#### ~~Sec. 2-87. Personnel policy 2-66. - Removal from office.~~

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~~The Any officer appointed by the Board of Trustees shall establish and publish a personnel policy to include but not be limited to vacations, holidays, leave, jury duty, etc.~~

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~~(Prior code 2-6-1)~~

#### ~~Sec. 2-88. Discipline and discharge.~~

~~An employee may be discharged or disciplined for any removed from office or suspended for a specific time, with or without pay, by a majority vote of the following reasons:~~

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~~(1) — Refusal or inability to follow orders.~~

~~(2) — Inefficiency.~~

~~(3) — Violation Board of departmental regulations, general regulations or laws.~~

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~~(4) — Drinking on the job or working under Trustees, after a charge in writing has been delivered to the influence officer and a hearing before the Board of Trustees has occurred.~~

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~~Secs. (5) — Excessive tardiness.~~

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~~(6) — Willful destruction of Town property.~~

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(Prior code ~~2-6-67-2~~)

~~Sec. 2-89-80. - Reserved.~~

**Editor's note**—Ord. No. 03-2014, § 1, adopted May 6, 2014, repealed § 2-89, which pertained to town manager, appointment, and derived from Ord. No. 03-2013, § 1, adopted Jan. 7, 2014.

~~Sec. 2-90. - Reserved.~~

**Editor's note**—Ord. No. 03-2014, § 1, adopted May 6, 2014, repealed § 2-90, which pertained to town manager, duties, and derived from Ord. No. 03-2013, § 1, adopted Jan. 7, 2014.

~~Secs. 2-91 – 2-100. - Reserved.~~

## **ARTICLE V - ~~Reserved~~ Code of Ethics.**

### **Sec. 2-81. - Conflicts of interest—General.**

(a) A "conflict of interest" for purposes of this Article, means:

(1) Any pecuniary, property, or commercial benefit of any person covered by this Article or of any parent, spouse, or child of such person; or

(2) Any personal or private interest of any person covered by this Article, in any matter proposed or pending before the Board or commission, as applicable. However, a "conflict of interest" does not include any matter involving the common public interest, or any matter in which a similar benefit is conferred upon or is available to all persons or property similarly situated.

(b) No person subject to the requirements of this Article shall fail to comply with the applicable disclosure and non-action requirements of this Article.

### **Sec. 2-82. - Disclosure and non-action—Matters involving conflict of interest.**

(a) If the Mayor, any Board member, appointee or any member of a commission has a conflict of interest with regard to any matter before the Board or commission, as applicable, such person shall follow the disclosure and other requirements of this Section.

(b) At or before the time the matter is heard, the member shall disclose the interest to the Board or commission, as applicable. The member shall not vote on or otherwise take any formal action concerning the matter, shall not participate in any executive session concerning the matter, and shall refrain from attempting to influence any other member in voting on the matter.

### **Sec. 2-83. - Town employees; other provisions concerning conflicts of interest.**

(a) No Town employee shall take any official action concerning any matter as to which the employee has a conflict of interest.

(b) Neither the Mayor, any Board member, appointee, commission member, nor any employee, shall use for personal or private gain, or for any other personal or private purpose, any

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information which is not available to the public and which is obtained by reason of the person's position with the Town, or disclose any such information except as required by law.

(c) Neither the Mayor, any Board member, appointee, commission member, nor any employee shall be eligible to contract with the Town for period of four (4) years after the conclusion of elected service or employment, as applicable. This includes any contracting entity in which any person covered by this Article has personal or private interest.

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Footnotes:

— (1) —

**Editor's note**— Ord. No. 2019-01, § 1, adopted Feb. 17, 2019, repealed Art. V, §§ 2-101—2-106, which pertained to social security and retirement and derived from Ord. 92-04 § 1; Ord. 1-1982 §§ 1—4.

Secs. (d) The provisions of this Article shall be in addition to any applicable conflict of interest provision of the State statutes that are at least as restrictive as this Article, and shall supersede any such conflict of interest provisions of the State statutes that are less restrictive than this Article.

Secs. 2-40184—2-12090. - Reserved.

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## ARTICLE VI - Municipal Court

### Sec. 2-12191. - Municipal Court created.

A qualified Municipal Court of record in and for the Town is hereby created and established pursuant to and governed by the provisions of state law to hear and determine cases arising under this Code.

(Prior code 5-1-2)

### Sec. 2-122. 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.

(Prior code 5-1-3)

### Sec. 2-1232-92. - Municipal Judge; appointment.

The Court shall be presided over by a presiding Municipal Judge, appointed by the Board of Trustees for a two (2) year term, or until a successor is appointed and duly qualified. The Municipal Judge shall perform no other duties during the hours that Court is in session except such as may be approved by the Board of Trustees on motion or resolution. The Board of Trustees may appoint additional judges from time to time as may be needed to transact the business of the Court or to preside in the absence of the presiding Judge. The presiding Judge shall supervise and direct the Court's operations. Any Municipal Judge may be removed by the Board of Trustees for cause.

(Prior code 5-1-4)

**Sec. 2-12493. - Qualifications.**

The Board of Trustees may, by ordinance or resolution duly considered and adopted, establish from time to time such qualifications for the office of Municipal Judge as it may deem fit and proper and consistent with the procurement of persons of judicial temperament and ability. At a minimum, the Municipal Judge shall be an attorney licensed to practice law in the State of Colorado.

(Prior code 5-1-5)

**Sec. 2-12594. - 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~~such person 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~~their office.

(Prior code 5-1-6)

**Sec. 2-12695. - Compensation.**

The annual ~~salary~~compensation of the Municipal Judge shall be set by the Board of Trustees, ~~and payable as other salaries to Town employees.~~ The Board of Trustees shall from time to time budget and appropriate monies for the compensation of the Municipal Judge.

(Prior code 5-1-7)

**Sec. 2-12796. - Presiding Judge's powers.**

~~The presiding Municipal Judge shall have full power and authority to make and adopt rules and regulations for conducting the business of the Municipal Court. Such rules and regulations shall be reduced to writing.~~

(Prior code 5-1-8)

The Municipal Judge shall have all judicial powers relating to the operation of the court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado Supreme Court. The presiding judge shall have authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado Supreme Court.

**Sec. 2-12897. - Ex officio Clerk.**

The Judge shall also be ex officio Clerk of the Court unless a separate Clerk of the Municipal Court shall have been appointed by the Judge by and with the consent of the Board of Trustees.

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(Prior code 5-1-9)

**Sec. 2-129~~98~~, - Record of proceedings.**

It shall be a duty of the Court Clerk to keep and maintain a verbatim record of all proceedings and evidence at trials, by either electric devices or stenographic means.

(Ord. 92-04 §1)

**Sec. 2-130. ~~Acting Municipal Judge.~~**

~~In case~~**99. – Contempt** of the temporary absence, sickness or other inability of the Municipal Judge to act, the Mayor may appoint a competent person to act as such Municipal Judge until the disability of the Municipal Judge is removed. Such appointment must be in writing. An appointment of a permanent alternate by the Mayor, to be available upon said disability of the Municipal Judge, is hereby authorized and in the discretion of the Mayor.

(Prior code 5-1-10)

**Sec. 2-131. ~~Jurisdiction and powers of Court.~~**

The Municipal Court shall have original jurisdiction of all cases arising under this Code and other ordinances of the Town, with full power to carry the same into effect and to punish violations thereof by the imposition of such fines and penalties as herein provided; it shall have power to compel attendance of witnesses and to punish for contempt of such Court by fine not to exceed one thousand dollars (\$1,000.00), or by jail sentence not to exceed five (5) days, and shall have all powers incident to a court of record in relation to the same.

(Prior code 5-1-11; Ord. 92-04 §1)

**a) Failure**~~Sec. 2-132. Examine complaints; file reports.~~

The Court Clerk shall at all times receive and examine affidavits and complaints for the violation of this Code, and shall issue a summons or warrant in every case where there is probable cause to believe that an offense has been committed. He or she shall file monthly reports with the Town Clerk of all monies collected by him or her, either in the way of fines or otherwise, and shall on the last day of each month pay to the Town Treasurer all monies in his or her hands. The reports shall state the number of cases filed in his or her court, how the same were disposed of, and other matters of information concerning his or her office.

(Prior code 5-1-12)

**Sec. 2-133. ~~Sessions of Court.~~**

There shall be regular sessions of Municipal 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 Municipal Court at any time, including Sundays, holidays and night court, if, in the discretion of the Judge, a special session is deemed advisable.

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(Prior code 5-1-13)

~~Sec. 2-134. Hours.~~

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

(Prior code 5-1-14)

~~Sec. 2-135. 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 State Supreme Court shall be invalid and of no force and effect.

(Prior code 5-2-1)

~~Sec. 2-136. Commencement of action.~~

An action for the violation of any ordinance of the Town shall be brought in the name of the People of the State of Colorado as Plaintiff against the person who is alleged to have violated the ordinances as Defendant, and shall be commenced by the filing of a complaint or by the issuance of a summons or citation or by both summons and a 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 Judge shall impose a separate fine or penalty for each offense of which the defendant is convicted.

(Prior code 5-2-2)

~~Sec. 2-137. Content of complaint or summons; warrant, without adequate excuse, to obey a summons, subpoena.~~

- (a) Every complaint or summons shall state the name of the defendant, the number of the chapter and section 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 deputy marshal or a member of the personnel of the Court acting in his or her official capacity. Each warrant shall state the name of the defendant, the section and chapter alleged to have been violated and the date and place of the offense. Each subpoena shall state the name of the case, the name of the witness to whom the subpoena is directed, and that the witness is required to appear to give testimony on the date and at the time and place stated in the subpoena.
- (b) It shall be sufficient to charge a violation of the provisions of this Code in any summons or complaint by reference to the section and subsection, if any, providing for such violation.
- (c) Upon the filing of a verified complaint by a person not a deputy marshal or a member of the personnel of the Court acting in his or her official capacity, the Judge, Court Clerk or any authorized agent of the

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Court may issue a summons, or the Judge may issue a warrant against the defendant named in the complaint.

(Prior code 5-2-3)

~~Sec. 2-138. —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 or witnesses subject to the jurisdiction of the Court, the Court shall cause to be, or other court order 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. All witnesses shall be entitled to a fee as established by resolution of the Board of Trustees, and such witness fees shall be paid by the party requesting the attendance of the witness and taxed as costs of the suit.~~

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(Prior code 5-2-4)

~~Sec. 2-139. —Deliveryance of summons or subpoena.~~

- (a) ~~Any summons or subpoena issued in accordance with this Article shall be served in any case by any deputy marshal in the Town or in any particular case by any person specifically designated by the Court for that purpose.~~
- (b) ~~Any person who shall fail 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 punished pursuant to Section 1-72 of this Code. (Prior code 5-2-5)~~

~~Sec. 2-140. —Defects and objections as to form of summons.~~

~~No objection to the form of any summons or complaint shall be considered by the 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.~~

(Prior code 5-2-6)

~~that person may be deemed in contempt of the municipal court from which the summons, subpoena or other~~ **Sec. 2-141. —Bond may be given.**

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~~Every person arrested for a violation of the provisions of this Code shall have the right to be taken before a Municipal Court, a Judge thereof, the Town Marshal or a deputy marshal designated by the Town Marshal, and to be admitted to bail on his or her executing a cash surety or recognizance bond conditioned that he or she will appear, on a day and hour therein mentioned, before the Municipal Court and not depart the Court, which bond shall be in an amount adjudged sufficient by said Judge or officer to insure the appearance of the defendant. Such bond shall be approved by one of the Judges of the Municipal Court and entry of the filing thereof shall be made in the Court docket.~~

(Prior code 5-2-7)

~~Sec. 2-142. —Forfeiture of bond.~~

~~In case any defendant in any case before the Municipal Court of the Town shall fail to appear according to the terms, requirements and conditions of his or her bond for appearance, or, appearing, shall depart the court without leave, the bond shall automatically be forfeited.~~

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~~(Prior code 5-2-8)~~

~~Sec. 2-143. — Default.~~

~~When any defendant, duly summoned or admitted to bail, fails to appear at the time his or her case is made returnable or set for trial, the Municipal Judge may issue a warrant for the arrest of the defendant.~~

~~(Prior code 5-2-10; Ord. 92-04 §1)~~

~~Sec. 2-144. — Session open to public; exceptions.~~

~~All cases in Municipal Court shall be open to the public; provided, however, that where the type of offense charged and the nature of the case are such that it would be to the best interest of the witnesses and/or defendant to exclude all persons not directly connected with the case, the Municipal Judge may order that the court be cleared of all persons not so directly connected with the case except qualified representatives of news agencies. This decision shall be solely in the discretion of the Municipal Judge.~~

~~(Prior code 5-2-11)~~

~~Sec. 2-145. — Explanation of defendant's rights.~~

~~At the beginning of each court session, the Municipal Judge shall explain to the defendants their rights in Municipal Court, as well as the order of trial, and may also distribute a pamphlet to each defendant explaining such rights.~~

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~~(Prior code 5-2-12; Ord. 92-04 §1)~~

~~Sec. 2-146. — 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. However, in no case shall the total continuance exceed sixty-five (65) days, unless it appears to the Municipal Judge that extreme hardship will result. 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.~~

~~(Prior code 5-2-13; Ord. 92-04 §1)~~

~~Sec. 2-147. — Satisfaction of fines and costs.~~

~~(a) — Refusal to pay fines; incarceration. Every person against whom any fine, penalty or forfeiture shall be recovered under the ordinances of the Town, who, being able, refuses or neglects to pay the same, together with the costs taxed therewith, when demanded upon execution, may be committed in default thereof to such jail as the Municipal Judge selects, until the fine, penalty or forfeiture and costs~~

assessed are fully paid and satisfied, said person to be credited at the rate of two dollars (\$2.00) per day of such incarceration.

(b) ~~Inability to pay fines; alternate methods. Nothing contained in this Section shall require confinement in lieu of payment if the Municipal Judge is satisfied of the indigent status of the offender, nor shall anything contained in this Section prevent the Municipal Judge from decreeing that any such offender, regardless of financial status, be given alternative methods of satisfying the obligation to the Town created as a result of the conviction of an offense against the ordinances of the Town, including, but not limited to, the requirement that an affidavit under oath be filed, disclosing all assets of the offender, the imposition of work obligation for the benefit of the Town, or the setting of a reasonable bond, or allowance of probation, on such conditions as the Court feels will best serve justice and the object of Municipal Court procedures. Such conditions may be any that are reasonable and constitutional, including, but not limited to, an opportunity to pay by installment, or a requirement of working certain hours of specified days at such duties as the Town may direct.~~

(c) ~~Inability to pay fines; refusal to comply. In the event any offender is given the opportunity of an alternate method of discharging his or her obligation to the Town and accepts the conditions incident thereto, and fails and neglects to perform such conditions, then such failure or refusal shall constitute a separate offense against the ordinances of the Town, and, upon conviction of such offense, the offender may be punished by imprisonment for not more than ninety (90) days, the imposition of a fine of not more than three hundred dollars (\$300.00) or by both such imprisonment and fine; provided, however, that no such convicted person shall be confined for more than ninety (90) days for any one (1) conviction, except as herein provided for the willful failure to pay an imposed fine. In the event the Court determines the maximum allowable penalty should be imposed and finds the offender to be indigent, alternate requirements, as was issued. Upon a finding of contempt, the penalties set forth in this Section or devised by the Court, ~~§ 11~~ of this Code shall be imposed apply.~~

(d) ~~Inability to pay costs; alternate methods. The Court may also determine the conduct themselves in a manner in which costs incurred shall be reimbursed to the Town, consistent with the considerations decorum and respect inherent in the concept of judicial proceedings in the municipal court shall be deemed a contempt of court. Upon a finding of contempt, the penalties set forth in this Section, the laws governing the same and the desire to achieve justice.~~

~~(Ord. 92-04 § 1)~~

~~Sec. 2-148. Person in custody.~~

~~A person in custody who cannot be tried on account of the absence of witnesses or other cause, and who cannot give bail for his or her appearance, may be confined to a security facility, not exceeding three (3) days, and in such case the Municipal Judge shall deliver to the officer committing such a person a commitment stating the cause of the detention.~~

~~(Prior code 5-2-17; Ord. 92-04 § 1)~~

~~Sec. 2-149. Sentence suspended.~~

~~The Municipal Judge is hereby authorized to suspend the payment of any fine, or any part thereof, assessed for a violation ~~§ 11~~ of this Code or any ordinance. The Municipal Judge may impose reasonable conditions upon such suspension and revoke such suspension and reinstate the sentence for a violation of such conditions shall apply.~~

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(Prior code 5-2-18; Ord. 92-04 §1)

(c) Contempt of court proceedings shall be held in accordance with Colorado Rules of Civil Procedure 107, as amended.

**Sec. 2-~~150~~100. - Fines paid to Town Treasurer.**

All fines or other monies collected in the Municipal Court for the violation of this Code or any of the ordinances of the Town shall be reported by the Municipal Court and paid to the Town Treasurer each month.

(Prior code 5-2-19)

**Sec. 2-~~151~~101. - Imposition of court costs.**

There shall be imposed upon each defendant/ ~~or~~ respondent in the Municipal Court a cost of twenty-five dollars (\$25.00) upon conviction of a violation of any Town ordinance, said disposition including ~~but not limited to~~ without limitation the granting of a deferred sentence or deferred prosecution. No court costs shall be imposed in any case in which the charges are dismissed prior to prosecution or upon a finding by the Court of not guilty; nor shall any court costs be imposed should any defendant appear prior to the date of the first appearance and pay said fine to the Town Clerk.

(Ord. 11-1984; Ord. 7-1989; Ord. 03-2007 §1)

**Sec. 2-102. - Restitution.**

(a) Restitution may be ordered by the Municipal Court on its own motion, or upon oral or written motion of the prosecutor where a victim of the crime suffered a pecuniary loss. Any order for restitution shall include one or more of the following:

- (1) An order of a specific amount of restitution be paid by the defendant;
- (2) An order that the defendant is obligated to pay restitution, but that the specific amount of restitution shall be determined within the ninety-one (91) days immediately following the order of conviction, unless good cause is shown for extending the time period by which the restitution amount shall be determined. Any such order shall set a date for a restitution hearing within the time limits prescribed if so requested by the defendant;
- (3) An order, in addition to or in place of a specific amount of restitution, that the defendant pay restitution covering the actual costs of specific future treatment of any victim of the crime.

(b) The Municipal Court shall base its order for restitution upon information presented to the court by the prosecutor, who shall compile such information through victim impact statements or other means to determine the amount of restitution and the identities of the victims.

(c) Any order for restitution entered pursuant to this Section is a final civil judgment in favor of the Town and any victim. Any such judgment remains in force until the restitution is paid in

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full. Any order for restitution shall remain in force notwithstanding the termination of a deferred judgment and sentence or a deferred adjudication, the entry of an order of expungement pursuant to C.R.S. § 19-1-306, or an order to seal entered pursuant to C.R.S. § 24-72-7.

#### Sec. 2-103. – Collections.

If a person against whom any restitution, fine, penalty or costs has been assessed shall fail to pay any portion of such assessed amount when due, the Municipal Court may enter a judgment for the full amount, including any late fees as approved by the Board of Trustees by resolution, pursuant to the provisions of C.R.S. § 13-10-113(6) and C.R.S. § 18-1.3-506, as those statutes may be amended from time to time. Any such judgment may be referred by the Municipal Court to the Town Clerk for collection, and any costs of collection, up to a limit of eighteen percent (18%) of the amount owed, shall be assessed against such person. Interest shall accrue from and after such judgment in accordance with the provisions of C.R.S. § 5-12-102 as that statute may be amended from time to time.

#### Sec. 4522-104. - Penalty assessments.

Provided that all fines, fees and costs associated with the issuance of a summons and complaint for a traffic infraction are paid or mailed not more than twenty (20) days after the issuance of the summons and complaint, the assessment of points against the defendant's driving privileges shall be reduced as follows:

- (1) — For a violation in which there was no injury or property damage, and having an assessment of either three (3) or four (4) points, the assessment will be reduced by two (2) points.
- (2) — For a violation having an assessment of two (2) points, the assessment will be reduced by one (1) point.
- (3) — For all other violations, a court appearance is mandatory, except those violations not requiring a court appearance by law.

(Ord. 04-2011 §1)

#### Secs. 2-453105—2-470120. - Reserved.

#### ARTICLE VII - Marshal's Department

#### Sec. 2-474121. - Creation, composition.

There is hereby created a Marshal's Department for the Town which shall consist of one (1) Town Marshal and as many deputy marshals as may from time to time be deemed necessary for the safety and good order of the Town.

(Prior code 2-8-1)

#### Sec. 2-472122. - Departmental rules and regulations.

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The Marshal's 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.

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(Prior code 2-8-2)

**Sec. 2-173123. - Appointment, powers and duties of the Town Marshal.**

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At its first regular meeting following each biennial election, the Board of Trustees shall appoint a Town Marshal who shall be the head of the Marshal's Department. It shall be the duty of the Town Marshal to:

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(1) See that the ordinances of the Town are duly enforced and the rules and regulations of the Marshal's Department obeyed, and to perform such duties as may be required by the Board of Trustees;

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(2) Direct the operations of the Marshal's Department, subject to the rules and regulations thereof;

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(3) Arrest any person violating any of the Town ordinances and take such violator before the Municipal Court for trial;

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(4) Take charge of the Town jail, all prisoners confined therein and all those who are sentenced to labor on the streets or public works of the Town, and see that orders and sentences with reference to such are fully executed and complied with; and

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(5) Render such accounts of the Marshal's Department, his or her Marshal's Department, their duties and receipts as may be required by the Board of Trustees and keep the records of his or her their office open to inspection by the Board of Trustees at any time.

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(Prior code 2-8-3)

**Sec. 2-174124. - Oath and bond of Town Marshal.**

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Before entering upon the duties of such office, the Town Marshal shall take and subscribe to an oath that he or she such person will support the Constitution and laws of the State, Constitution of the United States and ordinances of the Town, and that he or she such person will faithfully perform the duties of the office upon which he or she such person is about to enter. The Town Marshal shall furnish a surety bond to be approved by the Board of Trustees, in the amount of ten thousand dollars (\$10,000.00), conditioned upon the faithful discharge of the duties of his or her their office.

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(Prior code 2-8-3)

**Sec. 2-175125. - Duties of deputy marshals.**

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All members of the Marshal's Department shall have power and duties as follows:

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(1) They shall perform all duties required by the Town the Town Marshal.

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(2) They shall suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons in the Town and pursue and arrest any person fleeing from justice in any part of the State.

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(3) — ~~They shall be the enforcement officers of the Town and shall see that the provisions of this Code and the laws of the State are complied with. They shall arrest without process all persons engaged in the violation in their presence of any provision of this Code or the laws of the State. Upon such arrest, they shall forthwith convey such offenders before the proper officer to be dealt with according to law; provided that they may incarcerate any person whom they shall arrest at a late and unusual hour of the night until the following morning; and provided further that, in the special cases relating to traffic offenses, they may release an arrested person upon his or her~~such person's written promise to appear in court.

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(4) — ~~They shall report such offenses as may come to their knowledge to the proper Town official or they shall report the same to the Municipal Judge, securing a warrant for the arrest of offenders when desirable.~~

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(5) — ~~They shall execute and return all writs and processes to them directed by the Municipal Judge in any case arising under a Town ordinance, and they may serve the same in any part of the County.~~

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~~(Prior code 2-8-4)~~

~~Sec. 2-176~~126. - Oath of deputy marshals.

~~Before entering upon the duties of his or her~~such office, each deputy ~~marshals~~marshal shall take and subscribe an oath that ~~he or she~~such person will support the Constitution and laws of the State, the Constitution of the United States and the ordinances of the Town, and that ~~he or she~~such person will faithfully perform the duties of the office upon which ~~he or she~~such person is about to enter.

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~~(Prior code 2-8-5)~~

~~Sec. 2-177. — Uniforms.~~

~~Every deputy marshal shall wear at all times while on duty a uniform of the type and quality prescribed by the Board of Trustees.~~

~~(Prior code 2-8-6)~~

~~Sec. 2-178. — Duty of citizens to aid.~~

~~It shall be the duty of all persons, when called upon by any deputy marshal, to promptly aid and assist such officer in the discharge of his or her duties.~~

~~(Prior code 2-8-7)~~

~~Sec. 2-179~~127. - Extraterritorial duty.

~~The Town Marshal may, in his or her~~their discretion, upon request of the chief of police, town marshal or person exercising the functions thereof in any other jurisdiction, assign deputy ~~marshals~~under his or her marshals under their control, together with such equipment as ~~he or she~~such person shall deem to be proper, to perform temporary duty in the requesting jurisdiction.

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(Prior code 2-8-8)

**Sec. 2-128. - Reserve marshals; appointment; powers.**

The Mayor may, upon any emergency, riot, pestilence, invasion or at any time ~~he or she~~ the Mayor shall deem it necessary for the peace, good order or health of the Town, order the Town Marshal to appoint reserve ~~marshals~~ ~~for~~ marshals for a specified time, not exceeding two (2) days, without the approval of the Board of Trustees. The Mayor may also, with the approval of a majority of the Board of Trustees, order the Town Marshal to appoint such number of reserve ~~marshals~~ ~~as~~ marshals as may be agreed upon by the Board of Trustees to serve upon days of election, public celebration and holidays, and said reserve marshals shall have and possess all the powers and privileges of regular ~~policemen~~ marshals during the time for which they may be appointed.

(Prior code Secs. 2-8-9)

~~Sec. 129-2-181-140. - Reserved.~~

**ARTICLE VIII – Special ~~marshals~~ Parking Code Enforcement Officers**

**Sec. 2-141. – Creation.**

~~There is created the position of special code enforcement officer. All special code enforcement officers shall be hired or designated as a special code enforcement officer by the Town Manager, and may be employees, agents or independent contractors (or employees thereof) of the Town. Such special code enforcement officers may be hired on a temporary or permanent basis, and may work full- or part-time hours.~~

~~**Sec.** Any person desiring the services of a special marshal in or about his or her property or place of business, upon application to the Board of Trustees, may have any suitable person named for such special marshal duly appointed as such. Such special marshal shall take the usual oath of office and shall have the powers of a regular deputy marshal in and upon the premises for which he or she may have been appointed, but not elsewhere; provided, however, that special marshals so appointed shall be under the control of the Town Marshal. The person at whose instance such officer was appointed shall be responsible for the pay of such officer, and the Town shall in no case incur any liability whatever by reason of the appointment of such special marshal. No person appointed as a special marshal under the terms of this Section shall be considered a member of the Marshal's Department.~~

(Prior code 2-8-10)

~~Sec. 2-182. – Special marshals, shield.~~

~~All special or reserve marshals shall wear a shield having inscribed thereon "Special Marshal" while on duty. It shall be unlawful for any special marshal to wear his or her badge or shield when he or she is not performing the duties for which said marshal is employed.~~

(Prior code 2-8-11)

**2-142 – Authority.**

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(a) Special code enforcement officers shall have the authority to enforce all parking regulations set forth in this the Town of Green Mountain Falls Municipal Code, including without limitation, ~~the parking regulations set forth in the Model Traffic Code adopted by the Town in Chapter 10.04.~~

(b) Special code enforcement officers may issue Municipal Court summonses and complaints for violations of the Code provisions they are authorized to enforce pursuant to subsection (a) hereof; provided that special code enforcement officers shall have no authority to detain or arrest individuals, or impound property.

~~Secs. 2-143—2-150. - Reserved.~~

## **ARTICLE IX - Emergency Management**

### **Sec. 2-151. - Purpose.**

The purpose of this Chapter is for the town to establish and maintain a local emergency management agency as described in the Colorado Disaster Emergency Act, C.R.S. § 24-7-33.5, *et seq* in the event of an emergency. For purposes of this Article, *emergency event* means the occurrence or imminent threat in the Town of widespread or severe damage, injury, or loss of life or property resulting from any natural or human cause, including without limitation flood, earthquake, wind, storm, hazardous substance incident, oil spill or other water contamination, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or invasion.

### **Sec. 2-152. – Emergency Manager.**

(a) The Board of Trustees hereby appoints the Town Manager as the emergency manager to direct appropriate planning, management and coordination in all phases of emergency management, including mitigation, preparedness, response and recovery.

(b) The Mayor shall notify ~~Secs. 2-183—2-200. - Reserved.~~

~~ARTICLE VIII—the Colorado Division of Homeland Security Office of Emergency Protection~~

~~Sec. 2-201. – Purpose.~~

~~The Town will from time to time Management, in the future, in all probability, have within its corporate limits fire, flood, civil disturbances and riots, and, therefore, it is deemed in the best interest writing of the existence of the Town to exercise certain local emergency police powers necessary and incidental to management agency, the maintenance name, of the safety, health and welfare of the citizens the Town. current emergency manager, and any other related information the division requests.~~

~~(Prior code 2-9-1)~~

~~Sec. 2-202. – Mayor's authority.~~

~~2-153. - Powers of Emergency police powers shall be placed in the hands of the Mayor, and these powers should Manager.~~

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~~The following powers may be exercised by the emergency manager only in the event of an emergency event as herein contemplated, shall only be exercised for such period of time as the actual emergency exists, and, further, shall only be invoked after a declaration and proclamation of an emergency- event;~~

~~(Prior code 2-9-2)~~

~~Sec. 2-203. Powers of Mayor.~~

~~In addition to any and all powers enumerated in this Code, the Mayor shall have further emergency powers necessary to preserve the peace and order of the Town as follows:~~

~~(1) The Mayor shall have the power to declare an emergency to exist when, in his or her opinion, one (1) or more of the following conditions exists:~~

- ~~a. There is extreme likelihood of danger of destruction of life or property due to unusual conditions;~~
- ~~b. Unusual or extreme weather conditions exist, making use of Town streets or areas difficult or impossible;~~
- ~~c. Civil unrest, commotion or uprising is imminent or exists; and/or~~
- ~~d. There is a stoppage or loss of electrical power affecting a major portion of the Town.~~

~~(2) The emergency shall be declared in a proclamation of the Mayor, which proclamation shall be delivered to the Town Marshal, who shall then see that said proclamation is delivered to all news media within the Town and who shall also use public address systems throughout the Town and immediately notify the public of said proclamation and that violators will be arrested and subject to penalty.~~

~~(3) After declaration of such emergency, the Mayor shall have the authority to exercise any or all of the following powers:~~

~~a. (1) To exercise any and all powers granted by state law or this Code;~~

~~(2) To call upon regular and auxiliary enforcement agencies and organizations within or without the Town to assist in preserving and keeping the peace and the preservation of life and property of the citizenry of the Town;~~

~~b. (2) To close streets and sidewalks and to delineate areas within the Town wherein an emergency exists;~~

~~c. To impose a curfew upon all or any portion of the Town, thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firemen and Town authorized or requested enforcement officers and personnel may be exempted from such curfew;~~

~~d. To order the closing of any business establishments anywhere within the Town for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, malt beverages, gasoline or firearms; and/or~~

~~e. The power to (3) To enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property, including the furnishing or exchange of supplies, equipment, facilities, personnel or services;~~

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(4) To promulgate such regulations as necessary to protect life and property and preserve critical resources, which regulations shall be confirmed at the earliest practical time by the Board of Trustees and shall be circulated to the public, including without limitation:

a. Suspension of provisions of this Code that prescribe procedures for conduct of Town business, if strict compliance would in any way prevent, hinder or delay necessary action in coping with the emergency;

b. The transfer or reassignment of Town staff for the purpose of performing or facilitating emergency services;

c. The authorization of compensation for assistance providers;

d. The waiver of all provisions for competitive bidding direct the purchasing agent to purchase necessary supplies in the open market at not more than commercial prices;

e. The declaration of a public curfew; and

f. Such other measures and regulations necessary to preserve the public peace, health and safety.

(5) To direct protective actions, including without limitation shelter-in-place or Town evacuation;

(6) To prescribe routes, modes of transportation and destinations in connection with an evacuation, including controlling ingress to and egress from an emergency area and the movement of persons within the area;

(7) To provide for temporary housing;

(8) To request county, state and federal assistance, compensation and grants in support of emergency and/or disaster preparedness, prevention, mitigation, response, continuity or recovery activities; and

(9) To do any and all acts necessary and incidental to the preservation of life, limb and property within the Town.

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Sec. (Prior code 2-9-3)

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~~Sec. 2-204. Time effective.~~

#### **2-154. – Emergency operations plan.**

(a) The emergency manager shall be responsible for preparing and keeping a current emergency operations plan, which shall delineate measures to be implemented by the Town before, during and after an emergency event.

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(b) The emergency operations plan shall identify department responsibilities, including requirements for maintenance of specific facilities, and department emergency procedures and critical resource information.

Sec. proclamation specifying 2-155. – Procedures for declaring emergency event.

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(a) Declaration. The Mayor is authorized to declare that an emergency event exists when, in the Mayor's opinion and in consultation with ~~exactness~~ the emergency manager, such an event has occurred or the threat of such event is imminent. Declaration of an emergency event shall be in writing and shall describe the nature and circumstances of the emergency and the area in which the threatened. The emergency is declared to exist manager shall become effective upon its issuance be responsible for the publication and dissemination of information to the public and shall file the declaration with the town clerk and forward a copy to the division.

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(b) Effect. A declaration of an emergency event shall automatically empower the emergency manager to exercise any and all of the emergency powers permitted by state and local law or this Chapter. The Board of Trustees shall convene to perform its legislative powers as the situation demands and shall receive reports through the emergency manager and evaluate and enact policy and other support as necessary.

(c) Duration. A declaration of an emergency event shall remain in effect until the Board of Trustees or the emergency manager declares that the threat of danger has passed and publishes a notice effecting the same. Notwithstanding the foregoing, a state of emergency shall not be continued for more than seven days unless the board of trustees approves a longer duration. Any approval of a continuance or termination of an emergency event shall be filed with the Town Clerk and a copy shall be forwarded to the Colorado Division of Homeland Security Office of Emergency Management.

#### Sec. -

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(Prior code 2-9-3)

Sec. 2-205. — Duration of state of emergency.

Any emergency proclaimed in accordance with the provisions of this Article shall terminate after forty-eight (48) hours from the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided, however, that upon declaration of a second or further emergencies to exist, the emergency powers set forth herein may be exercised during such further emergency period or periods, but never for more than forty-eight (48) hours in one (1) declared emergency period.

(Prior code 2-9-3)

#### 2-156. — Line of succession.

(a) If the Mayor is unable to perform any duties set forth in this Article, then the duties conferred on the Mayor shall be performed by the Mayor Pro Tem.

(b) If the emergency manager is unable to manage an emergency event or otherwise unable to perform the duties set forth in this Article, then the duties conferred on the emergency manager shall be performed by the following, in descending order: the Mayor, then the Town Marshal, then the public works director, then the planning director, then the deputy Town Marshal.

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Secs. 2-206, 157, 2-220, 160. - Reserved.



## ARTICLE ~~IX~~<sup>X</sup> - Planning Commission<sup>(2)</sup>

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### Footnotes:

— (2) —

**Editor's note**— Ord. No. 2020-03, § 1, adopted July 7, 2020, repealed the former Art. IX, §§ 2-221—2-229, and enacted a new Art. IX as set out herein. The former Art. IX pertained to similar subject matter and derived from Prior code 6-2-1—6-2-9; Ord. No. 2019-05, § 1, adopted Oct. 15, 2019; Ord. No. 2019-07, § 1, adopted Dec. 3, 2019.

### Sec. 2-~~221~~<sup>161</sup>, - Purpose.

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(a) The Town is a rural mountain community in a natural setting characterized by mountainsides, boulders, streams, trees and other flora indigenous to its location, altitude and climate.

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(b) Buildings and other improvements within the Town exhibit a prevailing rustic aspect subordinate to the environment. Dwellings designed for single-family residence predominate. Commercial, civic and residential activities are of a service, crafts, professional and recreational nature. It is the purpose of this Article to accomplish the preservation and enhancement of these conditions and qualities. Therefore, pursuant to the authority conferred by state statutes, there is created a Planning Commission for the Town.

(Ord. No. 2020-03, § 1, 7-7-2020)

### Sec. 2-~~221~~<sup>162</sup>, - Powers and duties.

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The Planning Commission shall have the powers and duties as set forth in C.R.S. § 31-23-201, et seq., as amended, including, without limitation, the duty to formulate and approve a Master Plan for the Town and to make careful and comprehensive surveys and studies of present and future growth of the Town with due regard to its relation to neighboring territories. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, well-adjusted and harmonious development of the Town and its environs which will, in accordance with present and future needs, best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as efficiency and economy in the process of development; including among other things adequate provision for traffic, beautification, promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditures of public funds and the adequate provision of public utilities and other public requirements. The Planning Commission shall review all proposed subdivisions, proposed zoning and such other matters relating to planning as is deemed advisable. The decisions of the Planning Commission shall be purely advisory in nature to the Board of Trustees. Upon the final adoption of the Master Plan by the Planning Commission, the same shall be presented to the Board of Trustees for its approval and the Master Plan shall be given primary consideration by the Board of Trustees. The Board of Trustees may amend or alter the Master Plan but only after the Planning

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Commission has had the opportunity to comment upon the proposed amendment. Any deviation from the Master Plan shall be determined to be an amendment to the Plan.

(Ord. No. 2020-03, § 1, 7-7-2020)

**Sec. 2-223163. - Membership and term.**

(a) — The Planning Commission shall consist of five (5) members appointed by the Board of Trustees. In addition to five (5) regular, voting members, one (1) Board of Trustee member shall serve as an ex officio member of the Planning Commission and may take part in discussions but shall not vote.

(b) — The term of the ex officio member shall correspond to his or her~~their~~ official tenure. The term of each voting member shall be three (3) years or until his or her~~their~~ successor takes office. A voting member may be removed by the Board of Trustees upon the filing of a written statement by a member of the Board of Trustees if, after public hearing, the Board of Trustees finds the member has committed inefficiency, neglect of duty, or malfeasance in office.

(Ord. No. 2020-03, § 1, 7-7-2020)

**Sec. 2-224164. - Meetings.**

(a) — The Planning Commission shall meet at the call of the Town Manager or the Town Manager's designee.

(b) — Public notice conforming to the requirements of Section 2-61 hereof and Chapter 16 of the Code shall be required prior to any public hearing.

(Ord. No. 2020-03, § 1, 7-7-2020)

**Secs. 2-225165—2-240170. - Reserved.**

**ARTICLE ~~X~~<sup>XI</sup> - Board of Adjustment<sup>(a)</sup>**

Footnotes:

— (3) —

**Editor's note**— Ord. No. 2020-03, § 2, adopted July 7, 2020, repealed the former Art. X, §§ 2-241—2-249, and enacted a new Art. X as set out herein. The former Art. X pertained to similar subject matter and derived from Prior code 6-3-1.2 A and Prior code 6-3-1.2 B.

**Sec. 2-241171. - Purpose.**

A Board of Adjustment is hereby created to hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcement of this Code.

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(Ord. No. 2020-03, § 2, 7-7-2020)

**Sec. 2-242172. - Powers and duties.**

(a) — The Board of Adjustment may overturn or modify any order, requirement, decision or determination made by an administrative official charged with enforcing this Code when it determines that the official incorrectly applied this Code or exceeded ~~his or her~~**their** authority. In addition, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Code, the Board of Adjustment has the power, in passing upon all appeals, to vary or modify the application of the regulations or provisions of this Code relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of this Code is observed, public safety and welfare secured and substantial justice done.

(b) — The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under this Article or to effect any variation of this Article.

(Ord. No. 2020-03, § 2, 7-7-2020)

**Sec. 2-243173. - Membership and term.**

(a) — The Board of Adjustment shall consist of five (5) members appointed by the Board of Trustees. In addition to five (5) regular, voting members, one (1) Board of Trustee member shall serve as an ex officio member of the Board of Adjustment and may take part in discussions but shall not vote.

(b) — The term of the ex officio member shall correspond to ~~his or her~~**their** official tenure. The term of each voting member shall be three (3) years or until ~~his or her~~**their** successor takes office. A voting member may be removed by the Board of Trustees upon the filing of a written statement by a member of the Board of Trustees if, after a public hearing, the Board of Trustees finds the member has committed inefficiency, neglect of duty, or malfeasance in office.

(Ord. No. 2020-03, § 2, 7-7-2020)

**Sec. 2-244174. - Meetings.**

(a) — The Board of Adjustment shall meet at the call of the Town Manager or the Town Manager's designee and shall fix a reasonable time for the hearing of all appeals.

(b) — Public notice conforming to the requirements of **Section 2-61 hereof and Chapter 16 of the Code** shall be required prior to any public hearing.

(Ord. No. 2020-03, § 2, 7-7-2020)

**Secs. 2-175 — 2-245 — 2-260180. - Reserved.**

**ARTICLE XI — Code of Ethics**

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~~Sec. 2-261. Conflicts of interest—General.~~

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(a) A "conflict of interest" for purposes of this Article, means:

(1) Any pecuniary, property, or commercial benefit of any person covered by this Article or of any parent, spouse, or child of such person; or

(2) ~~Any personal or private interest of any person covered by this Article, in any matter proposed or pending before the Board or commission, as applicable. However, a "conflict of interest" does not include any matter involving the common public interest, or any matter in which a similar benefit is conferred upon or is available to all persons or property similarly situated.~~

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(b) No person subject to the requirements of this Article shall fail to comply with the applicable disclosure and non-action requirements of this Article.

(Ord. No. 02-2014, 5-6-2014)

~~Sec. 2-262. Disclosure and non-action—Matters involving conflict of interest.~~

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(a) ~~If the Mayor, any Board member, appointee or any member of a commission has a conflict of interest with regard to any matter before the Board or commission, as applicable, he or she shall follow the disclosure and other requirements of this Section.~~

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(b) ~~At or before the time the matter is heard, the member shall disclose the interest to the Board or commission, as applicable. The member shall not vote on or otherwise take any formal action concerning the matter, shall not participate in any executive session concerning the matter, and shall refrain from attempting to influence any other member in voting on the matter.~~

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(Ord. No. 02-2014, 5-6-2014)

~~Sec. 2-263. City employees; other provisions concerning conflicts of interest.~~

(a) No Town employee shall take any official action concerning any matter as to which the employee has a conflict of interest.

(b) Neither the Mayor, any Board member, appointee, commission member, nor any employee, shall use for personal or private gain, or for any other personal or private purpose, any information which is not available to the public and which is obtained by reason of the person's position with the Town, or disclose any such information except as required by law.

(c) ~~Neither the Mayor, any Board member, appointee, commission member, nor any employee shall be eligible to contract with the Town for period of four (4) years after the conclusion of elected service or employment, as applicable. This includes any contracting entity in which any person covered by this Article has personal or private interest.~~

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(d) The provisions of this Article shall be in addition to any applicable conflict of interest provision of the State statutes that are at least as restrictive as this Article, and shall supersede any such conflict of interest provisions of the State statutes that are less restrictive than this Article.

(Ord. No. 02-2014, 5-6-2014)

~~ARTICLE XII - Parks, Recreation and Trails Advisory Committee<sup>(4)</sup>~~

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Footnotes:

—(4)—

**Editor's note**— Ord. No. 2020-03, § 3, adopted July 7, 2020, repealed the former Art. XII, §§ 2-701-2-711, and enacted a new Art. XII as set out herein. The former Art. XIII pertained to Parks and Recreation Advisory Committee and derived from Ord. No. 05-2017, § 1, adopted Sept. 19, 2017.

~~Sec. 2-271~~

**Sec. 2-181. - Purpose.**

The Town's health, welfare, beauty, and economic vitality would best be served if there was more coordination in planning for the maintenance and improvement of its parks, recreation, and trails; therefore, the Parks, Recreation and Trails Advisory Committee, a standing committee, is hereby created.

~~(Ord. No. 2020-03, § 3, 7-7-2020)~~

**Sec. 2-272182. - Powers and duties.**

(a)— The Parks, Recreation and Trails Advisory Committee shall have the power and duty to formulate and approve a Parks, Recreation, and Trails Master Plan; to review the maintenance and capital needs of the Town's parks, recreation facilities, and trails; to make recommendations to the Board of Trustees for additional resources that may be needed to address these needs; to recommend trail construction, maintenance, planning and acquisition; and to recommend capital projects that the Town should undertake to improve recreation facilities. The decision of the Parks, Recreation and Trails Advisory Committee shall be purely advisory in nature to the Board of Trustees. Upon the final adoption of any new version of the Master Plan by the Committee, the same shall be presented to the Board of Trustees for its approval.

(b)— The Parks, Recreation and Trails Advisory Committee shall have the power to solicit donations and carry out fundraising campaigns as approved by the Board of Trustees and in accordance with the Town's Donation Solicitation policy. All funds donated shall be accepted in accordance with the Town's Donation Acceptance policy and given to the Town Clerk for deposit in a special designated fund maintained for this purpose by the Town.

~~(Ord. No. 2020-03, § 3, 7-7-2020)~~

**Sec. 2-273183. - Membership.**

The Parks, Recreation and Trails Advisory Committee shall consist of five (5) members appointed by the Board of Trustees. All members shall be residents of the Town. In addition to regular appointed members, one (1) Board of Trustee member shall serve as an ex officio member of the Parks, Recreation and Trails Advisory Committee and may take part in discussions but shall not vote.

~~(Ord. No. 2020-03, § 3, 7-7-2020)~~

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**Sec. 2-~~274~~184. - Annual report.**

At the first regular meeting of the Board of Trustees in February of each year, the chair of the Parks and Recreation Advisory Committee will submit a written report to the Board of Trustees summarizing the work of the Committee during the preceding calendar year. At that time, the chair of the Parks, Recreation and Trails Advisory Committee shall also present for the Board of Trustees review and approval a proposed work plan for the new year.

(Ord. No. 2020-03, § 3, 7-7-2020)

**Secs. 2-~~275~~185—2-~~280~~190. - Reserved.**

**ARTICLE XIII - Fire Mitigation Advisory Committee**

**Sec. 2-~~281~~191. - Purpose.**

The public health, safety and welfare would best be served by effective coordination in fire mitigation activities between the Town and other regional governmental agencies. Therefore, a Fire Mitigation Advisory Committee is hereby established to advise the Board of Trustees and to coordinate with the El Paso County Emergency Management, the Colorado State Patrol, and other governmental agencies on fire-related issues affecting the Town and to develop a notification and evacuation plan for the Green Mountain Falls community.

(Ord. No. 2020-03, § 4, 7-7-2020)

**Sec. 2-~~282~~192. - Powers and duties.**

The Fire Mitigation Advisory Committee shall have the power and duty to formulate fire mitigation plans, to coordinate with El Paso County Emergency Management, the Colorado State Patrol, and other governmental agencies on fire-related issues affecting the Town and to develop a notification and evacuation plan for the Green Mountain Falls community. The Fire Mitigation Advisory Committee shall work to carry out the recommendations in the "Action Recommendations for Structural Ignitability and Public Outreach" set forth in the Town of Green Mountain Falls Comprehensive Plan, adopted June 25, 2019, on p. 93, Table 2. The Fire Mitigation Advisory Committee may make further recommendations to the Board of Trustees for additional resources that may be needed to address these needs, and to recommend projects that the Town should undertake to improve the Town's resiliency to fire-related hazards. All activities of the Fire Mitigation Advisory Committee shall be subject to final approval of the Board of Trustees of the Town.

(Ord. No. 2020-03, § 4, 7-7-2020)

**Sec. 2-~~283~~193. - Membership.**

The Fire Mitigation Advisory Committee shall consist of five (5) members appointed by the Board of Trustees. All members shall be residents of the Town. Persons interested in becoming members shall complete and submit an application in accordance with the Town's Policy on Advisory Committees, Appointments to Outside Agencies and Volunteers. In addition to regular appointed

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members, one (1) Board of Trustee member shall serve as an ex officio member of the Fire Mitigation Advisory Committee and shall take part in discussions but shall not vote.

~~(Ord. No. 2020-03, § 4, 7-7-2020)~~

**~~Sec. 2-284194. - Annual report.~~**

~~At the first regular meeting of the Board of Trustees in February of each year, the chair of the Fire Mitigation Advisory Committee shall submit a written report to the Board of Trustees summarizing the work of the Committee during the preceding calendar year. At that time, the chair of the Fire Mitigation Advisory Committee shall also present for the Board of Trustees review and approval a proposed work plan for the new year.~~

~~(Ord. No. 2020-03, § 4, 7-7-2020)~~

**~~Secs. 2-285195. — 2-290200. - Reserved.~~**

**ARTICLE XIV - Boards, Committees and Commissions**

**~~Sec. 2-293201. - Creation.~~**

~~Pursuant to the authority conferred by state statutes, there is hereby created a planning commission, a board of adjustment, a parks, recreation and trails advisory committee, and a fire mitigation advisory committee, which shall hereinafter for the purposes of this Article be referred to as "boards, committees, and commissions" or "board, committee or commission." All boards, committees, and commissions shall act in a purely advisory role to Board of Trustees unless expressly stated otherwise in this Code or statute.~~

~~(Ord. No. 2020-03, § 5, 7-7-2020)~~

**~~Sec. 2-293202. - Applicability.~~**

~~The provisions of this title shall apply to all boards, committees, and commissions except when the topic is specifically addressed in the section related to the individual board, committee, or commission.~~

~~(Ord. No. 2020-03, § 5, 7-7-2020)~~

**~~Sec. 2-293203. - Members and alternates; appointments and requirements.~~**

~~(a) All members of any board, committee, or commission shall be residents of the Town and shall be appointed by Board of Trustees. In making appointments, the Board of Trustees shall strive to select members representative of all community demographic and stakeholder groups. If any member ceases to reside in the Town, membership shall immediately terminate. All boards, committees, and commissions shall consist of five (5) voting members. No member of the Board of Trustees and no Town employee shall serve as a voting member of any board, committee, or commission. No person shall serve as a member or alternate member of more than one (1) board, committee, or commission at the same time.~~

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(b) The Board of Trustees may appoint alternate members to any board, committee, or commission, not to exceed three (3) alternate members. Alternates are invited and requested to attend all meetings of the board, committee, or commission, but are not required to do so. Alternate members may take part in the discussion of any matter that comes before a board, committees, or commission, except for quasi-judicial matters, in which they may not participate unless they have been appointed in the place of an absent member. An alternate member may not vote on any matter unless designated to do so by the chair of the board, committee, or commission, in place of an absent member.

(c) Member Resignation. The chair shall inform the Town Clerk in writing within one week of any member's resignation.

(d) Persons interested in becoming members shall complete and submit an application in accordance with the Town's Policy on Advisory Committees, Appointments to Outside Agencies, and Volunteers.

~~(Ord. No. 2020-03, § 5, 7-7-2020)~~

**Sec. 2-294204. - Terms of office and appointment.**

Appointments to all boards, committees, and commissions shall be made by the Board of Trustees for three-year terms. Members shall serve without compensation. Initial terms of membership shall be as follows: Two (2) members shall be appointed to a one-year term, two (2) members shall be appointed to a two-year term, and one (1) member shall be appointed to a three-year term. Thereafter, as the terms expire, all appointments shall be for a period of three (3) years. Any members whose term expires may seek reappointment. Term limits shall not apply.

~~(Ord. No. 2020-03, § 5, 7-7-2020)~~

**Sec. 2-295205. - Quasi-judicial hearings.**

In any quasi-judicial or public hearing held before any board, committee, or commission, all evidence and testimony shall be presented publicly. The commission may use its expertise, technical competence, and specialized knowledge in evaluating evidence presented to it and shall have the power to weigh any evidence accordingly.

~~(Ord. No. 2020-03, § 5, 7-7-2020)~~

**Sec. 2-296206. - Officer positions.**

Each board, committee and commission shall appoint a chair and vice-chair annually during the first meeting of each calendar year. Each board, committee and commission shall appoint a secretary who may be a non-member who is an employee of the Town. Each board, committee or commission shall operate in accordance with the rules of procedure in **Section 2-297207**. The board, committee or commission chair shall notify the Town Clerk in writing within one (1) week post-election of the names of officers.

~~(Ord. No. 2020-03, § 5, 7-7-2020)~~

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**Sec. 2-~~297~~207. - Rules of procedure.**

Each board, committee and commission shall hold all meetings at Town Hall at regular intervals as set forth in the board, committee or commission's adopted bylaws. All meetings shall be open to the public, after posting full and timely notice of date, time, place, and subject matter of the meeting at the Town's designated posting locations. At each meeting, the public shall be given an opportunity for public comment. Full and timely notice shall be deemed to be at least twenty-four (24) hours prior to the date and time of the meeting. Unless required otherwise in this Chapter, all boards, committees, and commissions shall meet regularly at least once each month, except when a quorum is not available, or there is no business to address. Each board, committee, or commission's secretary shall keep minutes of its meetings and records of its transactions, the secretary shall deliver them to the Town Clerk in a timely manner for submission to the Board of Trustees. Special meetings may be called by the chair, any three (3) members, or the Town Manager with at least twenty-four (24) hours' written notice. The chair has final authority to establish the agenda and will collaborate with other members and Town staff in its development. The chair or ~~his or her~~their designee shall serve as the conduit of communication between the board, committee, or commission and the staff liaison and Board of Trustees. A majority of the appointed non-vacant seats shall constitute a quorum.

(Ord. No. 2020-03, § 5, 7-7-2020)

**Sec. 2-~~298~~208. - Authority and responsibility.**

(a) — Boards, committees, and commissions shall exercise their authority and shall be accountable to comply with the board, committee or commission's approved work plan, the Board of Trustees' goals, and with other Board of Trustees adopted rules or regulations. Unless otherwise provided by law, no board, committee, or commission, and no member of any board, committees, or commission shall have authority to act on behalf of the Town, including without limitation approving contracts, negotiating deals, spending or allocating Town funds, and negotiating transactions involving real or personal property.

(b) — Within ninety (90) days of creation, each board, commission or committee shall submit a set of bylaws to the Board of Trustees for review and approval. Bylaws shall, at a minimum, set the board, commission or committee's regular meeting date and time.

(c) — Each board, committee or commission shall provide an agenda to the Town Clerk at least twenty-four (24) hours prior to the date and time of each meeting and shall provide the Town Clerk with approved minutes following every meeting.

(d) — In collaboration with Town staff, each board, committee, and commission shall submit an annual budget request to Board of Trustees, which furthers the accomplishment of that plan. Once funding has been approved through the budgeting process, each board, committee, and commission may offer recommendations to the Town staff and Board of Trustees on the expenditure of those funds.

(e) — No board, committee, or commission and no member of any board, committee, or commission shall have the authority to accept donations on behalf of the Town, to direct any Town employee, or to make operational decisions for the Town.

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(Ord. No. 2020-03, § 5, 7-7-2020)

**Sec. 2-~~299~~209. - Recommendations to board of trustees.**

Each board, committee, and commission shall deliver recommendations to the Board of Trustees concerning its budget provisions and other matters within its purview as required herein, from time to time as directed by the Trustees, or as initiated by the board, committee, or commission. Board of Trustees shall approve annual board, committee, or commission work plans and may provide direction to boards, committees, and commissions regarding specific matters upon which the Board of Trustees desires the board, committee, or commissions to investigate and provide recommendations. Boards, committees, and commissions shall follow such direction and provide their recommendations to Board of Trustees via the means directed by the Board of Trustees.

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(Ord. No. 2020-03, § 5, 7-7-2020)

**Sec. 2-~~300~~210. - Removal.**

Except as provided otherwise in this Chapter, the Board of Trustees shall have the power to remove any member of any board, committee or commission at any time with or without cause. Upon removal, the Board of Trustees shall fill any vacancy for the remainder of the vacated position's term. If there is less than one (1) year remaining on the term, a person may, but need not, be appointed to fill the remainder of that term and the next full term.

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(Ord. No. 2020-03, § 5, 7-7-2020)

**Sec. 2-~~301~~211. - Staff liaison role.**

The Town Manager may assign Town personnel to assist boards, committees, and commissions with budget proposals or any other duties as is necessary for the boards, committees, or commissions to adequately perform their functions.

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(Ord. No. 2020-03, § 5, 7-7-2020)

**Sec. 2-~~302~~212. - Subcommittees.**

From time to time, the Board of Trustees or a board, committee, or commission may establish temporary or standing subcommittees to study issues or make recommendations. No formal action may be taken by a subcommittee. Subcommittee meetings shall be public meetings, shall comply with the rules of procedure set forth in **Section 2-~~297~~211**, and shall be attended by at least one (1) member of the board, committee or commission that formed the subcommittee. All subcommittee recommendations must be submitted to the appropriate board, committee, or commission.

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(Ord. No. 2020-03, § 5, 7-7-2020)

**Sec. 2-~~303~~213. - Remote participation.**

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Members of any board, committee, or commission may participate in meetings remotely, and any remote participation shall be pursuant to rules and regulations adopted by the Board of Trustees, as they may be amended.

(Ord. No. 2020-03, § 5, 7-7-2020)

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## **CHAPTER 2 - Administration and Personnel**

### **ARTICLE I - Elections**

#### **Sec. 2-1. - Election procedure.**

Each regular election shall be held on the first Tuesday in April in even-numbered years and all special elections called by the Board of Trustees for any purpose shall be in the manner prescribed by the Colorado Municipal Election Code, C.R.S. § 31-10-101, *et seq.*, as amended.

#### **Sec. 2-2. - Write-in candidate affidavit.**

No write-in vote for any Town office shall be counted unless an affidavit of intent has been filed with the Town Clerk, by the person who desires the office and is qualified to assume the duties of that office if elected. The affidavit of intent shall be filed with the Town Clerk no later than sixty-four (64) days before the day of the election as set forth in C.R.S. § 31-10-306, as amended.

#### **Secs. 2-3—2-10. - Reserved.**

### **ARTICLE II - Mayor and Board of Trustees**

#### **Sec. 2-11. - Composition; eligibility and term of office; power.**

(a) The corporate authority of the Town is by state law vested in a Board of Trustees, consisting of one (1) Mayor and four (4) Trustees. The Board of Trustees constitutes the legislative body of the Town, shall have 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.

(b) Each Trustee shall be a qualified elector and resident of the Town who has resided in the Town for a period of at least twelve (12) consecutive months immediately preceding the election, and is otherwise eligible to hold municipal office pursuant to law. If any Trustee shall move from or become, during the term of their office, a nonresident of the Town, they shall be deemed thereby to have vacated their office, upon the adoption by the Board of Trustees of a resolution declaring such vacancy to exist.

(c) The Mayor is elected for a two-year term. At each regular election, two (2) Trustees shall be elected to serve four-year terms.

(d) No elected Mayor shall serve more than three (3) consecutive two-year terms in office.

(e) No elected Trustee shall serve more than two (2) consecutive four-year terms in office.

(f) The Board of Trustees may appoint such other officers as it deems necessary for the good government of the Town and may prescribe their duties and fix their compensation.

#### **Sec. 2-12. - Mayor.**

(a) The Mayor shall preside over the meeting of the Board of Trustees, and shall perform such duties as may be required by statute or ordinance.

- (b) The Mayor shall be the executive head of the Town. The Mayor shall be the presiding officer of the Board of Trustees and shall vote on all matters before the Board of Trustees.
- (c) The Mayor shall execute and authenticate by their signature such instruments as the Trustees or any statutes or ordinances shall require.
- (d) Except as may be required by statute, the Mayor shall exercise only such powers as the Trustees shall specifically confer upon such person.
- (e) In the absence of the Town Manager, the Mayor may assume any duty assigned to the Town Manager.

#### **Sec. 2-13. - Mayor Pro Tem.**

At its first meeting following each biennial election, the Board of Trustees shall choose one (1) of the Trustees as Mayor Pro Tem who, in the absence of the Mayor from any meeting of the Board of Trustees or during the Mayor's absence from the Town, or the Mayor's inability to act, shall perform the duties of Mayor.

#### **Sec. 2-14. - Acting Mayor.**

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

#### **Sec. 2-15. - Removal of Trustee.**

By a majority vote of all members of the Board of Trustees, any member of the Board of Trustees may be removed from office pursuant to the provisions and procedures provided by law.

#### **Sec. 2-16. - Vacancies.**

- (a) In case of death, resignation, or removal for cause of any of the Trustees during their term of office, the Board of Trustees, by a majority vote of all the members thereof, may select and appoint from among the duly qualified electors of the Town a suitable person to fill the vacancy, who shall hold the office until the next biennial Town election.
- (b) The Board of Trustees also has the power to fill a vacancy on the Board by ordering a special election, subject to the requirements of the Colorado Municipal Election Code, to fill the vacancy until the next regular election and until a successor has been elected and has complied with C.R.S. § 31-4-401.

#### **Sec. 2-17. - Compensation.**

There shall be no salary or compensation for elected officials of the Town.

#### **Sec. 2-18. - Regular and special meetings.**

- (a) Regular Meetings. All regular meetings of the Board of Trustees shall be held at Town Hall; 10615 Green Mountain Falls Road; Green Mountain Falls, Colorado, or at such other places as determined by Board of Trustees. Regular meetings of the Board of Trustees shall be held

monthly on the first Tuesday of each month, commencing at 7:00 p.m., or at such other dates and times as determined by the Board of Trustees.

(b) Special Meetings. Special meetings shall be called by the Clerk on the written request of the Mayor or any three members of Board of Trustees on at least twenty-four (24) hours written notice to each member of Board of Trustees; but a special meeting may be held on shorter notice if all members of Board of Trustees are present or have waived notice thereof in writing. No business shall be transacted at any special meeting of Board of Trustees unless the same has been stated in notice of such meeting.

#### **Sec. 2-19. - Quorum.**

No action shall be taken unless a quorum is present. A majority of the Board of Trustees shall constitute a quorum. The Mayor shall be considered a Trustee for purposes of determining a quorum.

#### **Sec. 2-20. - Resolution or motion required; roll call vote.**

Every subject coming before the Board of Trustees for its action shall be submitted by resolution or motion. The Town Clerk shall call the roll and the vote thereon shall be taken by ayes and nays or, at the option of the Mayor, a voice vote may be taken.

#### **Sec. 2-21. - Adoption of ordinances.**

(a) The procedure for passing emergency ordinances necessary for the preservation of public property, health, welfare, peace, or safety is as follows:

- (1) An emergency ordinance may be introduced at any regular or special meeting of the Board of Trustees by any member thereof.
- (2) The emergency ordinance shall be read in full.
- (3) If state law requires a public hearing prior to the adoption of any emergency ordinance, the Board shall set the matter for a public hearing.
- (4) An emergency ordinance shall become effective upon an affirmative vote of three-fourths ( $\frac{3}{4}$ ) of the members of the Board of Trustees.

(b) The procedure for passing all other ordinances is as follows:

- (1) An ordinance may be introduced at any regular meeting of the Board of Trustees by any member thereof.
- (2) After the reading of the ordinance, by title or in full, the Board shall allow public comment.
- (3) After hearing public comment, the ordinance may be approved with or without amendment or rejected by a vote of the Board.

- (4) If the ordinance is approved by a majority of the Board members present, it shall be published in accordance with State law and this Code and said ordinance shall become effective thirty (30) days after publication.

#### **Sec. 2-22. - Committees.**

Any question pending before the Board of Trustees may be referred to the appropriate committee, or to a special committee for its consideration and report. When a question has been referred to a committee, such committee shall report thereon with its recommendation at the next meeting of the Board of Trustees.

#### **Sec. 2-23. - Oath and bond.**

All officers elected or appointed in any capacity shall take an oath to support the Constitution of the United States and the Constitution of the State. The Board of Trustees may provide that the payment of premiums on surety bonds of any officer of the Town shall be made by the Town Treasurer from funds so designated by the Board of Trustees.

#### **Sec. 2-24. - Work sessions.**

- (a) Work Session Board of Trustees Meetings -The Board of Trustees may meet informally on third Tuesday of each month, or at other times upon call of the Mayor or at the request of three members of the Board of Trustees to discuss matters pending or proposed.
- (b) The Town Manager or Clerk shall prepare the agenda, after consultation with the Mayor, for work sessions. All matters to appear on the agenda shall be filed with the Town Manager or Town Clerk no later than twelve noon the Wednesday prior to the work session.
- (c) Work sessions of the Board of Trustees are open to the press and public. No binding action may be taken at any work session. The Town Manger or Town Clerk shall keep brief minutes of work sessions.

**Secs. 2-25—2-40. - Reserved.**

### **ARTICLE III - Hearings**

#### **Sec. 2-41. - Purpose and applicability.**

The purpose of the rules of procedure contained in this Article is to provide a uniform, consistent and expeditious method of procedure for the conduct of all hearings held before the Board of Trustees and any other board, commission or official, hereinafter referred to as the hearing body, or shall be applied uniformly in all such hearings; provided, however, that any board, commission or official may supplement the provisions of this Article by the adoption of further rules of procedure not inconsistent herewith. All rules adopted to supplement the provisions of this Article by any board, commission or official shall be reduced to writing and copies thereof shall be made available to the public.

#### **Sec. 2-42. - Quasi-judicial hearings.**

The provisions of this Article shall be applicable only to those hearings where the Board of Trustees, board, commission or official is called upon to exercise a power of a judicial or quasi-judicial nature, which, for purposes of this Article, shall be deemed to consist of the following:

- (1) Hearings before the Board of Trustees upon application for the issuance, or hearings for the suspension or revocation of, liquor or fermented malt beverage licenses; upon ordinances which zone or rezone real property; and upon all appeals from the decisions of any Town official, board or commission, where such an appeal is authorized, and which requires an evidentiary hearing to determine such appeal.
- (2) Hearings before the Board of Adjustment upon appeals from any decision of the Building Inspector or upon request for a variance or exception from the terms of any ordinance.
- (3) Hearings before any board, commission or official respecting the issuance, suspension or revocation of any license issued by the Town.

**Sec. 2-43. - Rights of participants.**

All quasi-judicial hearings shall be conducted under procedures designed to ensure all interested parties due process of law and shall, in all cases, provide for the following:

- (1) The stenographic or other verbatim reproduction of all testimony presented in the hearing, or an adequate summary of such testimony; and
- (2) A clear decision by the hearing body which shall set forth the factual bases and reasons for the decision rendered.

**Sec. 2-44. - Order of procedure.**

- (a) In all quasi-judicial hearings, the following order of procedure shall be followed:
  - (1) Presentation of those documents showing the regularity of the commencement of the proceedings and the form of the public notice given;
  - (2) Presentation of evidence by Town staff if required or deemed necessary by the hearing body;
  - (3) Presentation of evidence by the applicant, petitioner, appealing party or complainant; and
  - (4) Opportunity for public comment, or presentation of evidence by any interested party.
- (b) All documents or other items of physical evidence shall be marked with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person.

**Sec. 2-45. - Rules of evidence.**



The hearing body shall not be required to observe any formal rules of evidence, but may consider any matter which a majority thereof concludes is reasonably reliable and calculated to aid the hearing body in reaching an accurate determination of the issues involved.

**Sec. 2-46. - Notice of decisions.**

No decision shall be effective except upon a vote of the members of the hearing body, conducted in an open session thereof, which shall be duly recorded in the minutes of the hearing body. Written copies of all decisions shall be delivered to the applicant, petitioner, appellant, complainant and other interested party requesting same.

**Sec. 2-47. - Judicial enforcement and review.**

Any party aggrieved by any decision rendered by the hearing body in any quasi-judicial hearing may apply to have said decision reviewed by a court of competent jurisdiction, in accordance with the provisions of the Colorado Rules of Civil Procedure.

**Sec. 2-48. - Administrative hearings.**

All other hearings before the Board of Trustees or any board, commission or official shall be deemed to be administrative hearings, the purpose of which is to obtain information to enable the Board of Trustees to determine legislative policy or to enable any board, commission or official to make recommendations to the Board of Trustees in accordance with the provisions of **Sections 2-49 through 2-53** hereof and in such a manner so as to enable any person desiring to be heard a reasonable opportunity for the presentation of their views.

**Sec. 2-49. - Commencement of proceedings.**

All proceedings conducted pursuant to the provisions of this Article shall be commenced in the manner provided by the ordinance or statute governing the matter.

**Sec. 2-50. - Referral to hearing body.**

Upon receipt by the Town Clerk or the secretary of any board, commission or other appropriate officer of the Town of any application, petition, notice of appeal, complaint or other instrument initiating a hearing, the same shall be referred to the Board of Trustees, board, commission or official having jurisdiction over the matter, and a date, time and place for hearing thereon shall be set by said Board of Trustees, board, commission or official, who shall direct public notice thereof to be given; provided, however, that the Board of Trustees or any board or commission may authorize its Town Clerk or secretary to set a date, time and place for hearing upon receipt of such instrument without the necessity for action by the Board of Trustees, board, commission or official.

**Sec. 2-51. - Public notice.**

Public notice of the date, time, place, and purpose for all public hearings shall be posted and published in accordance with State statute. If State statute does not specify the notice required, notice will at least be posted on the Town's official website no later than nine (9) calendar days before the public hearing.

**Sec. 2-52. - Preserving order.**

Each hearing body shall have the right to preserve order during the hearing and to take such steps, including the ejection of any disorderly or obstreperous person interfering with the proceedings, as may be necessary; and the hearing body may, prior to any presentations and as a condition to the taking of testimony or information from any person, require the registration of all persons desiring to be heard during the hearings. It may restrict the testimony of any person to the material issues pending before it and, to prevent duplicative or cumulative presentations, it may impose reasonable time restrictions on any person.

#### **Sec. 2-53. - Adjournments.**

After commencement of any hearing, the hearing body may, if it is deemed necessary to obtain a full presentation, adjourn the hearing from time to time by publicly announcing the fact of such adjournment and the date, time and place when and where the adjourned hearing shall recommence, without the necessity of any further published notice thereof.

#### **Secs. 2-54—2-60. - Reserved.**

### **ARTICLE IV - Officers and Employees**

#### **Sec. 2-61. - Town Manager.**

(a) The Board of Trustees may appoint a Town Manager who shall hold office at the pleasure of the majority of the Board for an indefinite period. The Town Manager shall be selected solely on the basis of executive and administrative qualifications, with special emphasis on training and experience in municipal administration, and shall be compensated at a rate deemed appropriate by the Board of Trustees.

(b) The purpose of the Office of Town Manager is to provide for the centralization of the administrative operations and responsibilities of the Town, with the Town Manager to be the administrative head of the Town government under the direction and control of the Board of Trustees, and who shall be responsible to the Trustees for the efficient conduct of said office.

(c) The Mayor shall annually conduct a performance evaluation of the Town Manager and submit the same to the Board of Trustees for its review and approval.

(d) The Town Manager is measured on performance in the areas of financial administration, staff management, Board assistance, liaison activities, citizen communication; planning and economic development; and other special or project related activities.

(e) The Town Manager shall nominate a department head or other senior employee of the Town to serve as acting Town Manager during the temporary disability or absence of the Town Manager. Such nominee, once confirmed by the Board of Trustees, shall perform the duties and exercise all the powers of the Town Manager during the period of disability or absence of the Town Manager, but shall receive no additional compensation therefor unless specifically authorized by the Board of Trustees. In the event of a vacancy in the position of Town Manager, an interim Town Manager may be appointed until the position is filled by regular appointment.

(f) Within six (6) months of appointment, the Town Manager shall be required to establish and maintain residency within a twenty-five (25) mile radius of the Town Hall.

- (g) The Board of Trustees may assign the duties of the Town Clerk to the Town Manager.
- (h) The Town Manager's functions and duties shall be as follows:
  - (1) To be responsible to the Board of Trustees for the organization and efficient administration of all administrative departments of the Town, and to faithfully carry out directives and recommendations of the Board of Trustees in coordinating the administrative functions and operations of the various departments.
  - (2) To supervise the enforcement of all laws and ordinances of the Town, save and except to the extent that the administration of such enforcement is confined to other officials by law or ordinance.
  - (3) To appoint and discharge, subject to the review and consent of the Board of Trustees, the heads of Town departments, excepting any Town officer appointed by the Board of Trustees, such as the Municipal Court Judge and Town Attorney. The Town Manager shall also have the authority to employ, dismiss, suspend or discipline all departmental employees.
  - (4) To establish, subject to the approval of the Board of Trustees, appropriate personnel salary schedules and rules and regulations governing officers and employees of the Town.
  - (5) To issue administrative regulations and outline general administrative procedures applicable to areas and departments within the Town Manager's supervision which are not in conflict with the laws of the State or other Town ordinances.
  - (6) To recommend an annual budget to the Board of Trustees, administer the budget as finally adopted and keep the Board of Trustees fully advised at all times as to the financial condition of the Town, including providing an annual report of the Town's affairs and summary of operations of all departments.
  - (7) To recommend to the Board of Trustees for its consideration proposed ordinances, changes in ordinances and such other regulatory measures as may be deemed necessary, and to attend Trustee meetings with the right to take part in discussion, but not to vote.
  - (8) To supervise and be responsible for the purchase of all supplies, materials and equipment as authorized by the Board of Trustees for the various departments, divisions or services of the Town in a manner necessitated by and subject to the limitations imposed by law.
  - (9) To serve as public relations officer of the Town, and in such capacity to investigate and adjust all complaints filed against any employee, department, division or service of the Town and to cooperate with all community organizations whose aim and purpose is to advance the best interests of the Town and its citizens.

**Sec. 2-62. - Town Clerk.**

- (a) The Board of Trustees at its first regular meeting after each biennial election shall appoint a Town Clerk, or may assign the duties of Town Clerk to the Town Manager.

(b) The Town Clerk's duties shall be as follows:

- (1) To serve as Clerk to the Board of Trustees, to attend all meetings of the Board, and to keep a journal of all its proceedings.
- (2) To act as custodian of all the Town's records, and all such records shall be open at all reasonable times for inspection by the electors of the Town.
- (3) To certify by the Town Clerk's signature all ordinances and resolutions enacted or passed by the Board of Trustees.
- (4) To maintain a supply of forms for all petitions required to be filed for any purpose provided by the Board of Trustees.
- (5) To countersign all warrants drawn on the Town treasury.
- (6) To be custodian of all bonds of all officers or employees of the Town.
- (7) To perform such other duties as may be prescribed by ordinance or at the direction of the Board of Trustees.

**Sec. 2-63. - Town manager and town clerk, oath and bond.**

Before entering upon the duties of office, the Town Manager and the Town Clerk shall take an oath of office and furnish a surety bond in the amount set by resolution of the Board of Trustees conditioned upon the faithful discharge of their duties.

**Sec. 2-64. - Town Attorney.**

(a) The Board of Trustees at its first regular meeting after each biennial election shall appoint a qualified attorney at law as the Town Attorney and shall fix the compensation for such position. The Board of Trustees may appoint an individual or entity to the office of Town Attorney. The individual or entity appointed to the office of the Town Attorney shall provide legal services as an independent contractor pursuant to the terms of an agreement approved by the Board of Trustees. The Town Attorney shall serve at the pleasure of the Board of Trustees.

(b) The Town Attorney shall act as legal advisor to, and be attorney and counsel for, the Board of Trustees and shall be responsible solely to the Board of Trustees. The Town Attorney shall advise any officer or department head of the Town in matters relating to official duties when so requested by the Board of Trustees and shall file with the Town Clerk a copy of all written opinions given by the Town Attorney.

(c) The Town Attorney shall prosecute ordinance violations and shall conduct cases in Municipal Court for the Town. The Town Attorney shall file with the Court Clerk copies of such records and files relating thereto.

(d) The Town Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to the Town Attorney by the Board of Trustees and shall promptly give their opinion as to the legal consequences thereof.

(e) The Town Attorney shall call to the attention of the Board of Trustees all matters of law, and changes or developments therein, affecting the Town.

(f) The Town Attorney shall perform such other duties as may be prescribed for such person by the Board of Trustees.

#### **Sec. 2-65. - Appointed officers and employees, salaries.**

All appointed officers and employees of the Town shall receive such salary as shall be established by the Board of Trustees.

#### **Sec. 2-66. - Removal from office.**

Any officer appointed by the Board of Trustees may be removed from office or suspended for a specific time, with or without pay, by a majority vote of the Board of Trustees, after a charge in writing has been delivered to the officer and a hearing before the Board of Trustees has occurred.

#### **Secs. 2-67—2-80. - Reserved.**

### **ARTICLE V - Code of Ethics**

#### **Sec. 2-81. - Conflicts of interest—General.**

(a) A "conflict of interest" for purposes of this Article, means:

(1) Any pecuniary, property, or commercial benefit of any person covered by this Article or of any parent, spouse, or child of such person; or

(2) Any personal or private interest of any person covered by this Article, in any matter proposed or pending before the Board or commission, as applicable. However, a "conflict of interest" does not include any matter involving the common public interest, or any matter in which a similar benefit is conferred upon or is available to all persons or property similarly situated.

(b) No person subject to the requirements of this Article shall fail to comply with the applicable disclosure and non-action requirements of this Article.

#### **Sec. 2-82. - Disclosure and non-action—Matters involving conflict of interest.**

(a) If the Mayor, any Board member, appointee or any member of a commission has a conflict of interest with regard to any matter before the Board or commission, as applicable, such person shall follow the disclosure and other requirements of this Section.

(b) At or before the time the matter is heard, the member shall disclose the interest to the Board or commission, as applicable. The member shall not vote on or otherwise take any formal action concerning the matter, shall not participate in any executive session concerning the matter, and shall refrain from attempting to influence any other member in voting on the matter.

#### **Sec. 2-83. - Town employees; other provisions concerning conflicts of interest.**

(a) No Town employee shall take any official action concerning any matter as to which the employee has a conflict of interest.

(b) Neither the Mayor, any Board member, appointee, commission member, nor any employee, shall use for personal or private gain, or for any other personal or private purpose, any information which is not available to the public and which is obtained by reason of the person's position with the Town, or disclose any such information except as required by law.

(c) Neither the Mayor, any Board member, appointee, commission member, nor any employee shall be eligible to contract with the Town for period of four (4) years after the conclusion of elected service or employment, as applicable. This includes any contracting entity in which any person covered by this Article has personal or private interest.

(d) The provisions of this Article shall be in addition to any applicable conflict of interest provision of the State statutes that are at least as restrictive as this Article, and shall supersede any such conflict of interest provisions of the State statutes that are less restrictive than this Article.

**Secs. 2-84—2-90. - Reserved.**

## **ARTICLE VI - Municipal Court**

### **Sec. 2-91. - Municipal Court created.**

A Municipal Court of record in and for the Town is hereby created and established pursuant to and governed by the provisions of state law to hear and determine cases arising under this Code.

### **Sec. 2-92. - Municipal Judge; appointment.**

The Court shall be presided over by a presiding Municipal Judge, appointed by the Board of Trustees for a two (2) year term, or until a successor is appointed and duly qualified. The Board of Trustees may appoint additional judges from time to time as may be needed to transact the business of the Court or to preside in the absence of the presiding Judge. The presiding Judge shall supervise and direct the Court's operations. Any Municipal Judge may be removed by the Board of Trustees for cause.

### **Sec. 2-93. - Qualifications.**

The Board of Trustees may, by ordinance or resolution duly considered and adopted, establish from time to time such qualifications for the office of Municipal Judge as it may deem fit and proper and consistent with the procurement of persons of judicial temperament and ability. At a minimum, the Municipal Judge shall be an attorney licensed to practice law in the State of Colorado.

### **Sec. 2-94. - Oath and bond.**

Before entering upon the duties of 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 such person 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 their office.

### **Sec. 2-95. - Compensation.**

The annual compensation of the Municipal Judge shall be set by the Board of Trustees.. The Board of Trustees shall from time-to-time budget and appropriate monies for the compensation of the Municipal Judge.

**Sec. 2-96. - Presiding Judge's powers.**

The Municipal Judge shall have all judicial powers relating to the operation of the court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado Supreme Court. The presiding judge shall have authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado Supreme Court.

**Sec. 2-97. - Ex officio Clerk.**

The Judge shall also be ex officio Clerk of the Court unless a separate Clerk of the Municipal Court shall have been appointed by the Judge by and with the consent of the Board of Trustees.

**Sec. 2-98. - Record of proceedings.**

It shall be a duty of the Court Clerk to keep and maintain a verbatim record of all proceedings and evidence at trials, by either electric devices or stenographic means.

**Sec. 2-99. – Contempt of court.**

(a) Failure by any person, without adequate excuse, to obey a summons, subpoena, or other court order served upon that person may be deemed in contempt of the municipal court from which the summons, subpoena or other court order was issued. Upon a finding of contempt, the penalties set forth at **Section 1-42** of this Code shall apply.

(b) Failure by any person to conduct themselves in a manner consistent with the decorum and respect inherent in the concept of judicial proceedings in the municipal court shall be deemed a contempt of court. Upon a finding of contempt, the penalties set forth at **Section 1-42** of this Code shall apply.

(c) Contempt of court proceedings shall be held in accordance with Colorado Rules of Civil Procedure 107, as amended.

**Sec. 2-100. - Fines paid to Town Treasurer.**

All fines or other monies collected in the Municipal Court for the violation of this Code or any of the ordinances of the Town shall be reported by the Municipal Court and paid to the Town Treasurer each month.

**Sec. 2-101. - Imposition of court costs.**

There shall be imposed upon each defendant or respondent in the Municipal Court a cost of twenty-five dollars (\$25.00) upon conviction of a violation of any Town ordinance, said disposition including without limitation the granting of a deferred sentence or deferred prosecution. No court costs shall be imposed in any case in which the charges are dismissed prior to prosecution or upon a finding by the Court of not guilty; nor shall any court costs be imposed should any defendant appear prior to the date of the first appearance and pay said fine to the Town Clerk.

### **Sec. 2-102. – Restitution.**

(a) Restitution may be ordered by the Municipal Court on its own motion, or upon oral or written motion of the prosecutor where a victim of the crime suffered a pecuniary loss. Any order for restitution shall include one or more of the following:

- (1) An order of a specific amount of restitution be paid by the defendant;
- (2) An order that the defendant is obligated to pay restitution, but that the specific amount of restitution shall be determined within the ninety-one (91) days immediately following the order of conviction, unless good cause is shown for extending the time period by which the restitution amount shall be determined. Any such order shall set a date for a restitution hearing within the time limits prescribed if so requested by the defendant;
- (3) An order, in addition to or in place of a specific amount of restitution, that the defendant pay restitution covering the actual costs of specific future treatment of any victim of the crime.

(b) The Municipal Court shall base its order for restitution upon information presented to the court by the prosecutor, who shall compile such information through victim impact statements or other means to determine the amount of restitution and the identities of the victims.

(c) Any order for restitution entered pursuant to this Section is a final civil judgment in favor of the Town and any victim. Any such judgment remains in force until the restitution is paid in full. Any order for restitution shall remain in force notwithstanding the termination of a deferred judgment and sentence or a deferred adjudication, the entry of an order of expungement pursuant to C.R.S. § 19-1-306, or an order to seal entered pursuant to C.R.S. § 24-72-7.

### **Sec. 2-103. – Collections.**

If a person against whom any restitution, fine, penalty or costs has been assessed shall fail to pay any portion of such assessed amount when due, the Municipal Court may enter a judgment for the full amount, including any late fees as approved by the Board of Trustees by resolution, pursuant to the provisions of C.R.S. § 13-10-113(6) and C.R.S. § 18-1.3-506, as those statutes may be amended from time to time. Any such judgment may be referred by the Municipal Court to the Town Clerk for collection, and any costs of collection, up to a limit of eighteen percent (18%) of the amount owed, shall be assessed against such person. Interest shall accrue from and after such judgment in accordance with the provisions of C.R.S. § 5-12-102 as that statute may be amended from time to time.

### **Sec. 2-104. - Penalty assessments.**

Provided that all fines, fees and costs associated with the issuance of a summons and complaint for a traffic infraction are paid or mailed not more than twenty (20) days after the issuance of the summons and complaint, the assessment of points against the defendant's driving privileges may be reduced as follows:

- (1) For a violation in which there was no injury or property damage, and having an assessment of either three (3) or four (4) points, the assessment will be reduced by two (2) points.



(2) For a violation having an assessment of two (2) points, the assessment will be reduced by one (1) point.

(3) For all other violations, a court appearance is mandatory, except those violations not requiring a court appearance by law.

**Secs. 2-105—2-120. - Reserved.**

## **ARTICLE VII - Marshal's Department**

### **Sec. 2-121. - Creation, composition.**

There is hereby created a Marshal's Department for the Town which shall consist of one (1) Town Marshal and as many deputy marshals as may from time to time be deemed necessary for the safety and good order of the Town.

### **Sec. 2-122. - Departmental rules and regulations.**

The Marshal's 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.

### **Sec. 2-123. - Appointment, powers and duties of the Town Marshal.**

At its first regular meeting following each biennial election, the Board of Trustees shall appoint a Town Marshal who shall be the head of the Marshal's Department. It shall be the duty of the Town Marshal to:

- (1) See that the ordinances of the Town are duly enforced and the rules and regulations of the Marshal's Department obeyed, and to perform such duties as may be required by the Board of Trustees;
- (2) Direct the operations of the Marshal's Department, subject to the rules and regulations thereof;
- (3) Arrest any person violating any of the Town ordinances and take such violator before the Municipal Court for trial;
- (4) Take charge of the Town jail, all prisoners confined therein and all those who are sentenced to labor on the streets or public works of the Town, and see that orders and sentences with reference to such are fully executed and complied with; and
- (5) Render such accounts of the Marshal's Department, their duties and receipts as may be required by the Board of Trustees and keep the records of their office open to inspection by the Board of Trustees at any time.

### **Sec. 2-124. - Oath and bond of Town Marshal.**

Before entering upon the duties of such office, the Town Marshal shall take and subscribe to an oath that such person will support the Constitution and laws of the State, Constitution of the United States and ordinances of the Town, and that such person will faithfully perform the duties of the office upon which such person is about to enter. The Town Marshal shall furnish a surety bond to be approved by the Board of Trustees, in the amount set by resolution of the Board of Trustees conditioned upon the faithful discharge of the duties of their office.

#### **Sec. 2-125. - Duties of deputy marshals.**

All members of the Marshal's Department shall have power and duties as follows:

- (1) They shall perform all duties required by the Town Marshal.
- (2) They shall suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons in the Town and pursue and arrest any person fleeing from justice in any part of the State.
- (3) They shall be the enforcement officers of the Town and shall see that the provisions of this Code and the laws of the State are complied with. They shall arrest without process all persons engaged in the violation in their presence of any provision of this Code or the laws of the State. Upon such arrest, they shall forthwith convey such offenders before the proper officer to be dealt with according to law; provided that they may incarcerate any person whom they shall arrest at a late and unusual hour of the night until the following morning; and provided further that, in the special cases relating to traffic offenses, they may release an arrested person upon such person's written promise to appear in court.
- (4) They shall report such offenses as may come to their knowledge to the proper Town official or they shall report the same to the Municipal Judge, securing a warrant for the arrest of offenders when desirable.
- (5) They shall execute and return all writs and processes to them directed by the Municipal Judge in any case arising under a Town ordinance, and they may serve the same in any part of the County.

#### **Sec. 2-126. - Oath of deputy marshals.**

Before entering upon the duties of such office, each deputy marshal shall take and subscribe an oath that such person will support the Constitution and laws of the State, the Constitution of the United States and the ordinances of the Town, and that such person will faithfully perform the duties of the office upon which such person is about to enter.

#### **Sec. 2-127. - Extraterritorial duty.**

The Town Marshal may, in their discretion, upon request of the chief of police, town marshal or person exercising the functions thereof in any other jurisdiction, assign deputy marshals under their control, together with such equipment as such person shall deem to be proper, to perform temporary duty in the requesting jurisdiction.

#### **Sec. 2-128. - Reserve marshals; appointment; powers.**

The Mayor may, upon any emergency, riot, pestilence, invasion or at any time the Mayor shall deem it necessary for the peace, good order or health of the Town, order the Town Marshal to appoint reserve marshals for a specified time, not exceeding two (2) days, without the approval of the Board of Trustees. The Mayor may also, with the approval of a majority of the Board of Trustees, order the Town Marshal to appoint such number of reserve marshals as may be agreed upon by the Board of Trustees to serve upon days of election, public celebration and holidays, and said reserve marshals shall have and possess all the powers and privileges of regular marshals during the time for which they may be appointed.

Secs. 2-129—2-140. - Reserved.

## **ARTICLE VIII – Special Parking Code Enforcement Officers**

### **Sec. 2-141. – Creation.**

There is created the position of special code enforcement officer. All special code enforcement officers shall be hired or designated as a special code enforcement officer by the Town Manager, and may be employees, agents or independent contractors (or employees thereof) of the Town. Such special code enforcement officers may be hired on a temporary or permanent basis, and may work full- or part-time hours.

### **Sec. 2-142 – Authority.**

(a) Special code enforcement officers shall have the authority to enforce all parking regulations set forth in this the Town of Green Mountain Falls Municipal Code, including without limitation, the parking regulations set forth in the Model Traffic Code adopted by the Town in Chapter 10.04.

(b) Special code enforcement officers may issue Municipal Court summonses and complaints for violations of the Code provisions they are authorized to enforce pursuant to subsection (a) hereof; provided that special code enforcement officers shall have no authority to detain or arrest individuals, or impound property.

Secs. 2-143—2-150. - Reserved.

## **ARTICLE IX - Emergency Management**

### **Sec. 2-151. - Purpose.**

The purpose of this Chapter is for the town to establish and maintain a local emergency management agency as described in the Colorado Disaster Emergency Act, C.R.S. § 24-7-33.5, *et seq* in the event of an emergency. For purposes of this Article, *emergency event* means the occurrence or imminent threat in the Town of widespread or severe damage, injury, or loss of life or property resulting from any natural or human cause, including without limitation flood, earthquake, wind, storm, hazardous substance incident, oil spill or other water contamination, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or invasion.

### **Sec. 2-152. – Emergency Manager.**

(a) The Board of Trustees hereby appoints the Town Manager as the emergency manager to direct appropriate planning, management and coordination in all phases of emergency management, including mitigation, preparedness, response and recovery.

(b) The Mayor shall notify the Colorado Division of Homeland Security Office of Emergency Management, in writing of the existence of the local emergency management agency, the name of the current emergency manager, and any other related information the division requests.

### **Sec. 2-153. - Powers of Emergency Manager.**

The following powers may be exercised by the emergency manager only in the event of an emergency event as herein contemplated, shall only be exercised for such period of time as the actual emergency exists, and shall only be invoked after a declaration and proclamation of an emergency event:

- (1) To exercise any and all powers granted by state law or this Code;
- (2) To call upon regular and auxiliary enforcement agencies and organizations within or without the Town to assist in preserving and keeping the peace and the preservation of life and property of the citizenry of the Town;
- (2) To close streets and sidewalks and to delineate areas within the Town wherein an emergency exists;
- (3) To enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property, including the furnishing or exchange of supplies, equipment, facilities, personnel or services;
- (4) To promulgate such regulations as necessary to protect life and property and preserve critical resources, which regulations shall be confirmed at the earliest practical time by the Board of Trustees and shall be circulated to the public, including without limitation:
  - a. Suspension of provisions of this Code that prescribe procedures for conduct of Town business, if strict compliance would in any way prevent, hinder or delay necessary action in coping with the emergency;
  - b. The transfer or reassignment of Town staff for the purpose of performing or facilitating emergency services;
  - c. The authorization of compensation for assistance providers;
  - d. The waiver of all provisions for competitive bidding direct the purchasing agent to purchase necessary supplies in the open market at not more than commercial prices;
  - e. The declaration of a public curfew; and
  - f. Such other measures and regulations necessary to preserve the public peace, health and safety.
- (5) To direct protective actions, including without limitation shelter-in-place or Town evacuation;
- (6) To prescribe routes, modes of transportation and destinations in connection with an evacuation, including controlling ingress to and egress from an emergency area and the movement of persons within the area;
- (7) To provide for temporary housing;
- (8) To request county, state and federal assistance, compensation and grants in support of emergency and/or disaster preparedness, prevention, mitigation, response, continuity or recovery activities; and

- (9) To do any and all acts necessary and incidental to the preservation of life, limb and property within the Town.

**Sec. 2-154. – Emergency operations plan.**

- (a) The emergency manager shall be responsible for preparing and keeping a current emergency operations plan, which shall delineate measures to be implemented by the Town before, during and after an emergency event.
- (b) The emergency operations plan shall identify department responsibilities, including requirements for maintenance of specific facilities, and department emergency procedures and critical resource information.

**Sec. 2-155. – Procedures for declaring emergency event.**

- (a) Declaration. The Mayor and Town Manager are each authorized to declare that an emergency event exists when, in such person's opinion and in consultation with the emergency manager, such an event has occurred or the threat of such event is imminent. Declaration of an emergency event shall be in writing and shall describe the nature and circumstances of the emergency and the area threatened. The emergency manager shall be responsible for the publication and dissemination of information to the public and shall file the declaration with the town clerk and forward a copy to the division.
- (b) Effect. A declaration of an emergency event shall automatically empower the emergency manager to exercise any and all of the emergency powers permitted by state and local law or this Chapter. The Board of Trustees shall convene to perform its legislative powers as the situation demands and shall receive reports through the emergency manager and evaluate and enact policy and other support as necessary.
- (c) Duration. A declaration of an emergency event shall remain in effect until the Board of Trustees or the emergency manager declares that the threat of danger has passed and publishes a notice effecting the same. Notwithstanding the foregoing, a state of emergency shall not be continued for more than seven days unless the board of trustees approves a longer duration. Any approval of a continuance or termination of an emergency event shall be filed with the Town Clerk and a copy shall be forwarded to the Colorado Division of Homeland Security Office of Emergency Management.

**Sec. 2-156. – Line of succession.**

- (a) If the Mayor is unable to perform any duties set forth in this Article, then the duties conferred on the Mayor shall be performed by the Mayor Pro Tem.
- (b) If the emergency manager is unable to manage an emergency event or otherwise unable to perform the duties set forth in this Article, then the duties conferred on the emergency manager shall be performed by the following, in descending order: the Mayor, then the Town Marshal, then the public works director, then the planning director, then the deputy Town Marshal.

**Secs. 2-157—2-160. - Reserved.**

**ARTICLE X - Planning Commission**

### **Sec. 2-161. - Purpose.**

(a) The Town is a rural mountain community in a natural setting characterized by mountainsides, boulders, streams, trees and other flora indigenous to its location, altitude and climate.

(b) Buildings and other improvements within the Town exhibit a prevailing rustic aspect subordinate to the environment. Dwellings designed for single-family residence predominate. Commercial, civic and residential activities are of a service, crafts, professional and recreational nature. It is the purpose of this Article to accomplish the preservation and enhancement of these conditions and qualities. Therefore, pursuant to the authority conferred by state statutes, there is created a Planning Commission for the Town.

### **Sec. 2-162. - Powers and duties.**

The Planning Commission shall have the powers and duties as set forth in C.R.S. § 31-23-201, et seq., as amended, including, without limitation, the duty to formulate and approve a Master Plan for the Town and to make careful and comprehensive surveys and studies of present and future growth of the Town with due regard to its relation to neighboring territories. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, well-adjusted and harmonious development of the Town and its environs which will, in accordance with present and future needs, best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as efficiency and economy in the process of development; including among other things adequate provision for traffic, beautification, promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditures of public funds and the adequate provision of public utilities and other public requirements. The Planning Commission shall review all proposed subdivisions, proposed zoning and such other matters relating to planning as is deemed advisable. The decisions of the Planning Commission shall be purely advisory in nature to the Board of Trustees. Upon the final adoption of the Master Plan by the Planning Commission, the same shall be presented to the Board of Trustees for its approval and the Master Plan shall be given primary consideration by the Board of Trustees. The Board of Trustees may amend or alter the Master Plan but only after the Planning Commission has had the opportunity to comment upon the proposed amendment. Any deviation from the Master Plan shall be determined to be an amendment to the Plan.

### **Sec. 2-163. - Membership and term.**

(a) The Planning Commission shall consist of five (5) members appointed by the Board of Trustees. In addition to five (5) regular, voting members, one (1) Board of Trustee member shall serve as an ex officio member of the Planning Commission and may take part in discussions but shall not vote. All members shall be residents of the Town

(b) The term of the ex officio member shall correspond to their official tenure. The term of each voting member shall be three (3) years or until their successor takes office. A voting member may be removed by the Board of Trustees upon the filing of a written statement by a member of the Board of Trustees if, after public hearing, the Board of Trustees finds the member has committed inefficiency, neglect of duty, or malfeasance in office.

#### **Sec. 2-164. - Meetings.**

(a) The Planning Commission shall meet at the call of the Town Manager or the Town Manager's designee.

(b) Public notice conforming to the requirements of Section 2-61 hereof and Chapter 16 of the Code shall be required prior to any public hearing.

**Secs. 2-165—2-170. - Reserved.**

### **ARTICLE XI - Board of Adjustment**

#### **Sec. 2-171. - Purpose.**

A Board of Adjustment is hereby created to hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcement of this Code.

#### **Sec. 2-172. - Powers and duties.**

(a) The Board of Adjustment may overturn or modify any order, requirement, decision or determination made by an administrative official charged with enforcing this Code when it determines that the official incorrectly applied this Code or exceeded their authority. In addition, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Code, the Board of Adjustment has the power, in passing upon all appeals, to vary or modify the application of the regulations or provisions of this Code relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of this Code is observed, public safety and welfare secured and substantial justice done.

(b) The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under this Article or to effect any variation of this Article.

#### **Sec. 2-173. - Membership and term.**

(a) The Board of Adjustment shall consist of five (5) members appointed by the Board of Trustees. In addition to five (5) regular, voting members, one (1) Board of Trustee member shall serve as an ex officio member of the Board of Adjustment and may take part in discussions but shall not vote. All members shall be residents of the Town

(b) The term of the ex officio member shall correspond to their official tenure. The term of each voting member shall be three (3) years or until their successor takes office. A voting member may be removed by the Board of Trustees upon the filing of a written statement by a member of the Board of Trustees if, after a public hearing, the Board of Trustees finds the member has committed inefficiency, neglect of duty, or malfeasance in office.

#### **Sec. 2-174. - Meetings.**

(a) The Board of Adjustment shall meet at the call of the Town Manager or the Town Manager's designee and shall fix a reasonable time for the hearing of all appeals.

(b) Public notice conforming to the requirements of Section 2-61 hereof and Chapter 16 of the Code shall be required prior to any public hearing.

**Secs. 2-175—2-180. - Reserved.**

## **ARTICLE XII - Parks, Recreation and Trails Advisory Committee**

### **Sec. 2-181. - Purpose.**

The Town's health, welfare, beauty, and economic vitality would best be served if there was more coordination in planning for the maintenance and improvement of its parks, recreation, and trails; therefore, the Parks, Recreation and Trails Advisory Committee, a standing committee, is hereby created.

### **Sec. 2-182. - Powers and duties.**

(a) The Parks, Recreation and Trails Advisory Committee shall have the power and duty to formulate and approve a Parks, Recreation, and Trails Master Plan; to review the maintenance and capital needs of the Town's parks, recreation facilities, and trails; to make recommendations to the Board of Trustees for additional resources that may be needed to address these needs; to recommend trail construction, maintenance, planning and acquisition; and to recommend capital projects that the Town should undertake to improve recreation facilities. The decision of the Parks, Recreation and Trails Advisory Committee shall be purely advisory in nature to the Board of Trustees. Upon the final adoption of any new version of the Master Plan by the Committee, the same shall be presented to the Board of Trustees for its approval.

(b) The Parks, Recreation and Trails Advisory Committee shall have the power to solicit donations and carry out fundraising campaigns as approved by the Board of Trustees and in accordance with the Town's Donation Solicitation policy. All funds donated shall be accepted in accordance with the Town's Donation Acceptance policy and given to the Town Clerk for deposit in a special designated fund maintained for this purpose by the Town.

### **Sec. 2-183. - Membership.**

The Parks, Recreation and Trails Advisory Committee shall consist of five (5) members appointed by the Board of Trustees. All members shall be residents of the Town. In addition to regular appointed members, one (1) Board of Trustee member shall serve as an ex officio member of the Parks, Recreation and Trails Advisory Committee and may take part in discussions but shall not vote.

### **Sec. 2-184. - Annual report.**

At the first regular meeting of the Board of Trustees in February of each year, the chair of the Parks and Recreation Advisory Committee will submit a written report to the Board of Trustees summarizing the work of the Committee during the preceding calendar year. At that time, the chair of the Parks, Recreation and Trails Advisory Committee shall also present for the Board of Trustees review and approval a proposed work plan for the new year.



**Secs. 2-185—2-190. - Reserved.**

### **ARTICLE XIII - Fire Mitigation Advisory Committee**

#### **Sec. 2-191. - Purpose.**

The public health, safety and welfare would best be served by effective coordination in fire mitigation activities between the Town and other regional governmental agencies. Therefore, a Fire Mitigation Advisory Committee is hereby established to advise the Board of Trustees and to coordinate with the El Paso County Emergency Management, the Colorado State Patrol, and other governmental agencies on fire-related issues affecting the Town and to develop a notification and evacuation plan for the Green Mountain Falls community.

#### **Sec. 2-192. - Powers and duties.**

The Fire Mitigation Advisory Committee shall have the power and duty to formulate fire mitigation plans, to coordinate with El Paso County Emergency Management, the Colorado State Patrol, and other governmental agencies on fire-related issues affecting the Town and to develop a notification and evacuation plan for the Green Mountain Falls community. The Fire Mitigation Advisory Committee shall work to carry out the recommendations in the "Action Recommendations for Structural Ignitability and Public Outreach" set forth in the Town of Green Mountain Falls Comprehensive Plan, adopted June 25, 2019, on p. 93, Table 2. The Fire Mitigation Advisory Committee may make further recommendations to the Board of Trustees for additional resources that may be needed to address these needs, and to recommend projects that the Town should undertake to improve the Town's resiliency to fire-related hazards. All activities of the Fire Mitigation Advisory Committee shall be subject to final approval of the Board of Trustees of the Town.

#### **Sec. 2-193. - Membership.**

The Fire Mitigation Advisory Committee shall consist of five (5) members appointed by the Board of Trustees. All members shall be residents of the Town. Persons interested in becoming members shall complete and submit an application in accordance with the Town's Policy on Advisory Committees, Appointments to Outside Agencies and Volunteers. In addition to regular appointed members, one (1) Board of Trustee member shall serve as an ex officio member of the Fire Mitigation Advisory Committee and shall take part in discussions but shall not vote.

#### **Sec. 2-194. - Annual report.**

At the first regular meeting of the Board of Trustees in February of each year, the chair of the Fire Mitigation Advisory Committee shall submit a written report to the Board of Trustees summarizing the work of the Committee during the preceding calendar year. At that time, the chair of the Fire Mitigation Advisory Committee shall also present for the Board of Trustees review and approval a proposed work plan for the new year.

**Secs. 2-195—2-200. - Reserved.**

### **ARTICLE XIV - Boards, Committees and Commissions**

#### **Sec. 2-201. - Creation.**

Pursuant to the authority conferred by state statutes, there is hereby created a planning commission, a board of adjustment, a parks, recreation and trails advisory committee, and a fire mitigation advisory committee, which shall hereinafter for the purposes of this Article be referred to as "boards, committees, and commissions" or "board, committee or commission." All boards, committees, and commissions shall act in a purely advisory role to Board of Trustees unless expressly stated otherwise in this Code or statute.

#### **Sec. 2-202. - Applicability.**

The provisions of this title shall apply to all boards, committees, and commissions except when the topic is specifically addressed in the section related to the individual board, committee, or commission.

#### **Sec. 2-203. - Members and alternates; appointments and requirements.**

(a) All members of any board, committee, or commission shall be residents of the Town and shall be appointed by Board of Trustees. For purposes of this Chapter, "resident" shall mean a person who has resided in the Town and considered the Town their primary place of residence for a period of at least twelve (12) consecutive months immediately preceding the appointment, and would otherwise be eligible to hold municipal office pursuant to law.

(b) In making appointments, the Board of Trustees shall strive to select members representative of all community demographic and stakeholder groups. If any member ceases to reside in the Town, membership shall immediately terminate. All boards, committees, and commissions shall consist of five (5) voting members. No member of the Board of Trustees and no Town employee shall serve as a voting member of any board, committee, or commission. No person shall serve as a member or alternate member of more than one (1) board, committee, or commission at the same time.

(c) The Board of Trustees may appoint alternate members to any board, committee, or commission, not to exceed three (3) alternate members. Alternates are invited and requested to attend all meetings of the board, committee, or commission, but are not required to do so. Alternate members may take part in the discussion of any matter that comes before a board, committees, or commission, except for quasi-judicial matters, in which they may not participate unless they have been appointed in the place of an absent member. An alternate member may not vote on any matter unless designated to do so by the chair of the board, committee, or commission, in place of an absent member.

(d) The chair shall inform the Town Clerk in writing within one week of any member's resignation.

(e) Persons interested in becoming members shall complete and submit an application in accordance with the Town's Policy on Advisory Committees, Appointments to Outside Agencies, and Volunteers.

#### **Sec. 2-204. - Terms of office and appointment.**

Appointments to all boards, committees, and commissions shall be made by the Board of Trustees for three-year terms. Members shall serve without compensation. Initial terms of membership shall

be as follows: Two (2) members shall be appointed to a one-year term, two (2) members shall be appointed to a two-year term, and one (1) member shall be appointed to a three-year term. Thereafter, as the terms expire, all appointments shall be for a period of three (3) years. Any members whose term expires may seek reappointment. Term limits shall not apply.

#### **Sec. 2-205. - Quasi-judicial hearings.**

In any quasi-judicial or public hearing held before any board, committee, or commission, all evidence and testimony shall be presented publicly. The commission may use its expertise, technical competence, and specialized knowledge in evaluating evidence presented to it and shall have the power to weigh any evidence accordingly.

#### **Sec. 2-206. - Officer positions.**

Each board, committee and commission shall appoint a chair and vice-chair annually during the first meeting of each calendar year. Each board, committee and commission shall appoint a secretary from among the remaining members of each respective board, committee, or commission. Each board, committee or commission shall operate in accordance with the rules of procedure in **Section 2-207**. The board, committee or commission chair shall notify the Town Clerk in writing within one (1) week post-election of the names of officers.

#### **Sec. 2-207. - Rules of procedure.**

Each board, committee and commission shall hold all meetings at Town Hall at regular intervals as set forth in the board, committee or commission's adopted bylaws. All meetings shall be open to the public, after posting full and timely notice of date, time, place, and subject matter of the meeting at the Town's designated posting locations. At each meeting, the public shall be given an opportunity for public comment. Full and timely notice shall be deemed to be at least twenty-four (24) hours prior to the date and time of the meeting. Unless required otherwise in this Chapter, all boards, committees, and commissions shall meet regularly at least once each month, except when a quorum is not available, or there is no business to address. Each board, committee, or commission's secretary shall keep minutes of its meetings and records of its transactions, the secretary shall deliver them to the Town Clerk in a timely manner for submission to the Board of Trustees. Special meetings may be called by the chair, any three (3) members, or the Town Manager with at least twenty-four (24) hours' written notice. The chair has final authority to establish the agenda and will collaborate with other members and Town staff in its development. The chair or their designee shall serve as the conduit of communication between the board, committee, or commission and the staff liaison and Board of Trustees. A majority of the appointed non-vacant seats shall constitute a quorum.

#### **Sec. 2-208. - Authority and responsibility.**

(a) Boards, committees, and commissions shall exercise their authority and shall be accountable to comply with the board, committee or commission's approved work plan, the Board of Trustees' goals, and with other Board of Trustees adopted rules or regulations. Unless otherwise provided by law, no board, committee, or commission, and no member of any board, committees, or commission shall have authority to act on behalf of the Town, including without limitation approving contracts, negotiating deals, spending or allocating Town funds, and negotiating transactions involving real or personal property.

(b) Within ninety (90) days of creation, each board, commission or committee shall submit a set of bylaws to the Board of Trustees for review and approval. Bylaws shall, at a minimum, set the board, commission or committee's regular meeting date and time.

(c) Each board, committee or commission shall provide an agenda to the Town Clerk at least twenty-four (24) hours prior to the date and time of each meeting and shall provide the Town Clerk with approved minutes following every meeting.

(d) In collaboration with Town staff, each board, committee, and commission shall submit an annual budget request to Board of Trustees, which furthers the accomplishment of that plan. Once funding has been approved through the budgeting process, each board, committee, and commission may offer recommendations to the Town staff and Board of Trustees on the expenditure of those funds.

(e) No board, committee, or commission and no member of any board, committee, or commission shall have the authority to accept donations on behalf of the Town, to direct any Town employee, or to make operational decisions for the Town.

#### **Sec. 2-209. - Recommendations to board of trustees.**

Each board, committee, and commission shall deliver recommendations to the Board of Trustees concerning its budget provisions and other matters within its purview as required herein, from time to time as directed by the Trustees, or as initiated by the board, committee, or commission. Board of Trustees shall approve annual board, committee, or commission work plans and may provide direction to boards, committees, and commissions regarding specific matters upon which the Board of Trustees desires the board, committee, or commissions to investigate and provide recommendations. Boards, committees, and commissions shall follow such direction and provide their recommendations to Board of Trustees via the means directed by the Board of Trustees.

#### **Sec. 2-210. - Removal.**

Except as provided otherwise in this Chapter, the Board of Trustees shall have the power to remove any member of any board, committee or commission at any time with or without cause. Upon removal, the Board of Trustees shall fill any vacancy for the remainder of the vacated position's term. If there is less than one (1) year remaining on the term, a person may, but need not, be appointed to fill the remainder of that term and the next full term.

#### **Sec. 2-211. - Staff liaison role.**

The Town Manager may assign Town personnel to assist boards, committees, and commissions with budget proposals or any other duties as is necessary for the boards, committees, or commissions to adequately perform their functions.

#### **Sec. 2-212. - Subcommittees.**

From time to time, the Board of Trustees or a board, committee, or commission may establish temporary or standing subcommittees to study issues or make recommendations. No formal action may be taken by a subcommittee. Subcommittee meetings shall be public meetings, shall comply with the rules of procedure set forth in **Section 2-207**, and shall be attended by at least one (1)

member of the board, committee or commission that formed the subcommittee. All subcommittee recommendations must be submitted to the appropriate board, committee, or commission.

**Sec. 2-213. - Remote participation.**

Members of any board, committee, or commission may participate in meetings remotely, and any remote participation shall be pursuant to rules and regulations adopted by the Board of Trustees, as they may be amended.

CHAPTER 43 - Revenue and Finance

ARTICLE I - General

Sec. 43-1. - Fiscal year same as calendar year.

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

(Prior code 3-1-1)

Sec. 43-2. - Annual budget.

Not later than the first regular meeting of the Board of Trustees in November of each year, the Budget Committee, or other duly authorized persons designated by the Board of Trustees, shall submit to the Board of Trustees the itemized annual budget for the ensuing fiscal year. The budget as approved by the Board of Trustees shall be adopted and administered in accordance with the provisions of the Local Government Budget Law of Colorado, C.R.S. § 29-1-101, et seq., as amended.

(Prior code 3-1-2)

Sec. 43-3. - Rate of tax levy.

The Board of Trustees shall by resolution fix the rate of tax to be levied upon all the taxable property within the Town for municipal purposes and, through the Town Clerk, shall officially certify said levy to the County Commissioners of El Paso and Teller Counties prior to December 16 of each year.

(Prior code 3-1-3; Ord. 92-04 §1)

Sec. 43-4. - Annual appropriation.

The Board of Trustees shall pass an ordinance or resolution within the last quarter of each fiscal year for the next fiscal year. ~~In such ordinance or resolution the Board of Trustees shall appropriate~~ appropriating sums of money as are necessary to cover the items in its budget and to defray all necessary expenses and liabilities of the Town, specifying the objects and purposes for which such appropriations are made and the amount appropriated for each object and purpose. The total amount appropriated shall not exceed the probably amount of revenue that will be collected during the fiscal year.

(Prior code 3-1-4; Ord. No. 06-21-2016A, § 1, 6-21-2016)

Sec. 43-5. - Publication of financial statements.

The Board of Trustees shall, within twenty (20) days after the adjournment of each regular or special meeting, publish such of its proceedings as relate to the payment of bills, stating for what the same are allowed, and the name of the person to whom allowed and to whom paid. It shall also publish a statement concerning all contracts awarded and rebates allowed.

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~~(Prior code 3-1-5)~~

**Sec. 43-6. - Deposits and investments.**

The Town ~~Treasurer and/or Town Clerk~~ Treasurer, shall deposit all of the funds and moneys which come into his or her~~their~~ possession by virtue of the office as Town Treasurer in one (1) or more responsible banks located in the State which have been designated by written resolution of the Board of Trustees. The Board of Trustees may also authorize the Town ~~Treasurer or Town Clerk~~ Treasurer, by written resolution to invest all or any part of such funds in securities which are authorized for such investment by state~~State~~ law.

~~(Prior code 3-1-6)~~

**Sec. 43-7. - Annual audit.**

The Board of Trustees shall select a qualified person or entity, as auditor and cause to be made an annual audit of the financial affairs and transactions of the Town in accordance with the requirements of stateState law.

~~(Prior code 3-1-7)~~

Secs. 43-8—43-20. - Reserved.

## ARTICLE II - General Fund

## and Special Funds

**Sec. 43-21. - 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. 92-04 §1)~~

~~Sees. 4 22-4 40. Reserved.~~

## ~~ARTICLE III – Special Funds~~

**Sec. ~~4413-21~~ 22. - Capital Improvement Fund.**

There is hereby established a special fund of the Town to be known as the Town of Green Mountain Falls Sales Tax Capital Improvement Fund.

(Ord. 92-04 §1)

**Sec. 4-423-23. - Conservation Trust Fund.**

There is hereby created a Conservation Trust Fund pursuant to the provisions of ~~Section~~C.R.S. § 29-21-101, ~~C.R. Set seq.~~, and such fund shall be received, budgeted, appropriated and used in accordance with the provisions of ~~state~~State law.

(Ord. 92-04 §1)

**Secs. 3-33-4-43-4-6040. - Reserved.**

**ARTICLE ~~IV~~III - Sales Tax**

**Sec. 4-613-41. - Purpose.**

The purpose of this Article is to impose a sales tax on the privilege of selling tangible personal property at retail and on the furnishing of services upon every retailer in the Town.

(Prior code 3-5-1; Ord. No. 2018-07, § 1, 8-7-2018)

**Sec. 4-623-42. - Definitions.**

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

(Prior code 3-5-2; Ord. No. 2018-07, § 1, 8-7-2018)

**Sec. 4-633-43. - Licenses.**

(a) It ~~shall be~~is unlawful for any person to engage in the business of selling tangible personal property at retail or in the furnishing of services without first having obtained a license therefor. Such 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 it is issued unless sooner revoked.

(b) Such license shall be granted and renewed only upon application stating the name and address of the person desiring such a license, the name of such business and the location and such other facts as the Town Clerk may require.

(c) 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 thereof if the licensee remains in the 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.

(d) In case business is transacted at one (1) or more separate premises by one (1) person, a separate license for each place of business shall be required.

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(e) Any person engaged in the business of selling tangible personal property at retail or in the furnishing of services in the Town without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this ArticleCode and punished as set forth in Section 4-41.

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(f) Each license shall be numbered, 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 transferrable.

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(g) No license shall be required for any person engaged exclusively in the business of selling commodities or in the furnishing of services that are exempt from taxation under State law.

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(Prior code 3-5-3; Ord. No. 2018-07, § 1, 8-7-2018)

#### **Sec. 4-643-44. - General provisions; exemptions.**

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(a) For the purpose of collection, administration and enforcement of this Article the provisions of SectionC.R.S., § 39-26-114, C.R.S., shall be deemed applicable and incorporated into this Article.

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(b) The amount subject to tax under this Article shall not include the state sales and use tax imposed by Article 26, of Chapter 39, C.R.S.

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(c) For the purpose of this Article, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer 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.

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(d) 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 Chapter 39, C.R.S., regardless of the place to which delivery is made.

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(e) In the event a retailer has no permanent place of business or more than one (1) place of business in the Town, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Article 26 of Chapter 39, C.R.S., and by the rules and regulations promulgated by the Department of Revenue.

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(f) For the purposes of collection, administration and enforcement of this Article, the sale of tangible personal property and services taxable pursuant to this Article shall be the same as the sale of tangible personal property and services taxable pursuant to SectionC.R.S., § 39-26-104, C.R.S., as amended.

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(Prior code 3-5-4; Ord. No. 2018-07, § 1, 8-7-2018)

#### **Sec. 4-653-45. - Schedule of sales tax.**

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(a) There is imposed, on all sales of tangible personal property and on the furnishing of all taxable services, a tax equal to two percent (2%) of the gross receipts.

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(b) There is hereby imposed on all sales of tangible personal property and on the furnishing of all taxable services an additional tax equal to one percent (1%) of the gross receipts. This additional sales tax, by voter approval, is to be used for the purpose of maintaining current services, repair

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and replacement of Town road maintenance and snowplowing equipment, the purchase of road maintenance materials and the maintenance, repair and improvements of Town parks and recreational facilities.

(c) The imposition of tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue or by separate ordinance of the Town.

(d) The collection, administration and enforcement of this sales tax shall be performed by the Director of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26 of Chapter 39, C.R.S., as amended, and all rules and regulations promulgated by the Director of Revenue shall govern the collection, administration and enforcement of sales tax imposed by this Article.

~~Secs. (Prior code 3-5-5; Ord. 01-2004 §1; Ord. No. 2018-07, § 1, 8-7-2018)~~

~~46- See 4-66-60. - Reserved.~~

~~Editor's note — Ord. No. 2018-07, § 1, adopted Aug. 7, 2018, repealed § 4-66, which pertained to election and amendments and derived from Prior code 3-5-6.~~

~~Secs. 4-67 — 4-80. - Reserved.~~

#### ~~ARTICLE ~~IV~~ - Use Tax~~

##### ~~Sec. 4-81-61. - Definitions.~~

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

~~(Ord. 92-02 §1)~~

##### ~~Sec. 4-82-62. - General provisions and exemptions.~~

(a) The purpose of this Article is to impose a use tax of two percent (2%) thereof, and such additional use tax as may be approved by the voters of the Town, for the privilege of using or consuming in the Town any construction and building materials purchased at retail, and for storing, using and consuming in the Town any motor or other vehicles on which registration is required, purchased at retail or both.

(b) There is hereby imposed, effective July 1, 2004, an additional use tax of one percent (1%) thereof, by voter approval, for the privilege of using or consuming in the Town any construction and building materials purchased at retail, and for storing, using and consuming in the Town any motor or other vehicles on which registration is required, purchased at retail or both.

(c) The use tax shall not apply:

(1) To the storage, use or consumption of any tangible personal property, the sale of which is subject to a retail sales tax imposed by the Town.

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(2) To the storage, use or consumption of 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.

(3) To the storage, use or consumption of 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; however, 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 a business in the State.

(4) To the storage, use or consumption of tangible personal property by the United States government or the State, or its institutions or political subdivisions, in their governmental capacities only, or by religious or charitable organizations in the conduct of their regular religious or charitable functions.

(5) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing, or compounding for sale, use or profit, any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or furnished shipping case thereof.

(6) To the storage, use or consumption of any article of tangible personal property, the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule town, city or city and county equal to or in excess of that imposed by this Article. A credit shall be granted against the use tax imposed by this Article with respect to a person's storage, use or consumption in the Town of tangible personal property purchased by him or her in a previous statutory or home rule town, city or city and county. The amount of the credit shall be equal to the tax paid by him or her by reason of the imposition of a sales or use tax of the previous statutory or home rule town, city or city and county on the purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Article.

(7) To the storage, use or consumption of tangible personal property and household effects acquired outside of the Town and brought into it by a nonresident acquiring residency.

(8) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the Town and he or she purchased the vehicle outside of the Town for use outside of the Town and actually so used it for a substantial and primary purpose for which it was acquired and he or she registered, titled and licensed said motor vehicle outside of the Town.

(9) To the storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of such use tax.

(10) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of this Article.

(Ord. 92-02 §2; Ord. 01-2004 §2)

**Sec. ~~4-83-63~~ - Collection, administration and enforcement of use tax.**

(a) The use tax provided for in this Article shall be applicable to every motor vehicle for which registration is required by the laws of the State; no registration shall be made of any motor or other vehicle for which registration is not required; and no certificate of title shall be issued for such vehicle by the Department of Revenue or its authorized agents until any tax due upon the use, storage or consumption thereof pursuant to this Article has been paid.

(b) The use tax imposed by this Article shall be collected by the authorized agents of the counties involved.

(c) The proceeds of said use tax shall be paid to the Town in accordance with the agreement entered into by the appropriate agencies and the Town.

(d) ~~The collection of the use~~ Use tax for construction and building materials shall be administered by the Board of Trustees and is to be collected at the time the building permit application is submitted to the Planning Commission or to the Town Clerk.

(e) ~~The collection and administration of the use tax imposed by this Article shall be performed by the Board of Trustees in substantially the same manner as the collection, administration and enforcement of the state sales and use tax.~~

(Ord. 92-02 §3; Ord. 01-2004 §§3, 4)

**Sec. ~~4-84-64~~ - Revenues.**

(a) Revenues collected by the two-percent use tax are to be used toward the payment of such municipal vehicles as the Board of Trustees determines are necessary and appropriate.

(b) Revenues collected by the one-percent additional use tax, approved by the voters, are to be used for the purpose of maintaining current services, repair and replacement of Town road maintenance and snowplowing equipment, the purchase of road maintenance materials and the maintenance, repair and improvements of Town parks and recreational facilities.

(Ord. 92-02 §4; Ord. 01-2004 §5)

**Secs. ~~4-85-4-100~~ ~~3-65-3-80~~ - Reserved.**

**ARTICLE ~~VI~~ - Lodging Occupation Tax<sup>(1)</sup>**

**Footnotes:**

—(1)—

**Editor's note**—Ord. No. 2018-05, §§ 1, 2, adopted Aug. 7, 2018, repealed the former Art. VI, §§ 4-101—4-107, and enacted a new Art. VI as set out herein. The former Art. VI pertained to Lodging Tax and derived from Ord. 4-1982 §§ 1—6; Ord. 4-1983 §§ 1, 2.

**Sec. ~~4-101-81~~ - Imposition of tax.**

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(a) The provision of lodging rooms and accommodations to the traveling public results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services such as police protection and has a substantial effect upon the health, safety and welfare of the citizens of the Town and upon the expenditures budgeted by the Town which is a matter of local concern.

(b) The classification of the provision of lodging as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory, and necessary.

(c) There is hereby levied by the Town an occupation tax on the provision of lodging upon every lodging business furnishing any room or accommodation for less than one (1) month or thirty (30) consecutive days within the Town in the amount of four dollars and fifty cents (\$4.50) per day, per occupied lodging room or accommodation.

(Ord. No. 2018-05, § 2, 8-7-2018)

#### **Sec. 4-1023-82. - Lodging defined.**

The provision of lodging means the transaction of furnishing rooms or accommodations to any person who, for monetary consideration, possesses or has the right to use or possess any room or rooms in a hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, short-term rentals licensed pursuant to Chapter 6, Article VIII, of this Code, or any other place that furnishes sleeping accommodations under any concession, permit, right of access, license to use, other agreement or otherwise and for a period of less than thirty (30) consecutive days or which rental is on a weekly or daily basis.

(Ord. No. 2018-05, § 2, 8-7-2018)

#### **Sec. 4-1023-83. - Exemptions.**

**Lodging Tax Exemptions.** The following transactions shall be exempt from the tax imposed by this Article:

(a) Accommodations provided by the United States, the State of Colorado, its departments and institutions, and the political subdivisions of the State in their governmental capacities only.

(b) Accommodations provided by those charitable, religious and eleemosynary organizations that have received from the Internal Revenue Service status under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, while in the conduct of their regular charitable, religious or eleemosynary functions and activities.

(c) Accommodations provided to a person who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, or other similar business pursuant to a written agreement for a period of at least one (1) month or thirty (30) consecutive days.

(d) Accommodations provided to a person without monetary consideration being paid to the vendor for such accommodations.

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(Ord. No. 2018-05, § 2, 8-7-2018)

**Sec. 4-1043-84. - Payment of tax.**

(a) Every lodging business shall remit the lodging occupation tax not less than quarterly on account of lodging provided in the preceding quarter and not later than fifteen (15) days following the end of each quarter of the calendar year. Said payment shall be accompanied by a return containing such information and be in such form as the Town Clerk may prescribe.

(b) The burden of providing that any transaction is exempt from the tax shall be upon the lodging business.

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(Ord. No. 2018-05, § 2, 8-7-2018)

**Sec. 4-1053-85. - Penalty for late payment.**

In the event payment of the lodging tax is not timely made as provided in Section 4-1043-84, the lodging business shall be required to pay unto the Town a fifteen percent (15%) penalty of the entire tax due for any given quarter.

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(Ord. No. 2018-05, § 2, 8-7-2018)

**Secs. 4-107 — 4-1203-87—3-100. - Reserved.**

**ARTICLE VI - Telephone Utilities Tax**

**Sec. 3-101. - Definitions.**

As used in this Article:

(1) *Base line count* means the total number of lines for which the incumbent provider provides basic local exchange service within the Town on January 1, 1998.

(2) *Basic local exchange service* means basic local exchange service or basic service authorized by a certificate of public convenience and necessity, or otherwise, under Title 40, Article 15, C.R.S., as amended or recodified from time to time.

(3) *Incumbent basic local exchange service provider* or *incumbent provider* means the company or entity providing basic local exchange service in the Town as of January 1, 1998.

(4) Inhabitant means any individual, corporation, partnership, joint venture, company, firm, association, proprietorship or other entity residing or having a place of business within the Town.

(5) 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, a line means a network access register, or its functional equivalent, provided to a customer at retail.

(6) New basic local exchange service provider or new provider means any company or entity other than the incumbent provider who enters the business of providing basic local exchange service.

(7) New provider's initial line count means the number of lines for which a new provider provides basic local exchange service within the Town thirty (30) days after that new provider's effective date, under Section 3-103.

(8) Provider means a company or entity providing basic local exchange service through use of its own facilities, through resale or through any combination of the two.

#### **Sec. 3-102. - Tax levied; amount.**

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(a) There is levied on and against each provider operating within the Town, a tax on the occupation and business of providing basic local exchange service at retail to inhabitants of the Town.

(b) The amount and payment rates of tax levied shall be as follows:

(1) The monthly tax rate to be paid by all providers shall be calculated by dividing the current annual amount of business and occupation tax paid by the incumbent provider, by the total number of lines for which a charge is made to all inhabitants on January 2, 1998 by all providers, the result of which shall be divided by twelve (12). Such formula can be represented as follows:

<u>The incumbent's current tax liability</u>	<u>÷ 12 =</u>	<u>Per monthly line rate</u>
<u>Total lines of all current providers</u>		

(2) The tax levied against each provider shall be calculated each August, shall be effective on the following January 1 and shall be payable on a quarterly basis, specifically, on March 31, June 30, September 30 and December 31 of each year.

(3) Each new provider that first becomes subject to this Article during any calendar year shall calculate its tax for that calendar year, as stated in paragraph (1) above, using as the number of provider lines, the number in the new provider's initial line count under Section 3-103. Each such new provider shall prorate the tax from and including the month of the effective date, under Section 3-103, through the end of that calendar year. Each such new provider that first becomes subject to this Article within the first ten (10) months of a tax year shall pay that prorated tax in equal quarterly payments, beginning the month of its statement of new provider's initial line count under Section 3-103 of lines, and ending



December 31 of that tax year. Each such new provider that first becomes subject to this Article during the last two (2) months of the tax year shall pay its total prorated tax within sixty (60) days of the effective date. For each such new provider, the tax for the following year shall be computed as stated in paragraph (2) above, using, as the number of provider lines, the number in either the new provider's initial line count, or its June 30 statement of lines for the preceding year (if any), under [Section 3-104](#), whichever statement comes later.

**Sec. 3-103. - Effective date; schedule of payments.**

For each provider, the tax levied by this Article shall commence on January 1, 1998, or on the date the provider first provides basic local exchange service with the Town, whichever is later. Except as this Article may otherwise provide, the tax shall be due and payable in quarterly payments.

**Sec. 3-104. - Initial and annual statements of company lines.**

An incumbent provider shall, on January 2, 1998, determine the total number of lines for which it then provides basic local exchange service within the Town (the base line count), and shall, by March 15, 1998, file with the Town Clerk a statement showing its determined total number of lines. On June 30 of each calendar year, each provider then subject to this Article shall determine the total number of lines for which it then provides basic local exchange service within the Town. By July 30 of the same calendar year, each such provider shall file with the Town Clerk a statement showing its determined total number of lines. In addition, a new provider that first becomes subject to this Article during any calendar year shall, thirty (30) days after that new provider's effective date under [Section 3-104](#), determine the number of lines for which it provides basic local exchange service within the Town (new provider's initial line count), and shall file its statement of that number within sixty (60) days after the effective date. All statements shall be in such form as the Town Clerk may require, including oaths, verifications or acknowledgments.

**Sec. 3-105. - Failure to pay; penalty; Town action to collect.**

If any provider subject to this Article fails to pay the taxes as provided in [Section 3-104](#), the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, is a debt due and owing from such provider to the Town. The Town may commence and prosecute to final judgment, in any court of competent jurisdiction, an action at law to collect the debt.

**Sec. 3-106. - Inspection of records.**

To enforce this Article, the Town and its officers, agents or representatives shall have the right, at all reasonable hours and times, to examine and copy the books and records of every provider subject to this Article. They shall use these books, records and copies only to enforce this Article. Except under a court order, or in connection with enforcing this Article, they shall not divulge these books, records or copies to any other person.

**Sec. 3-107. - Tax not on interstate commerce; not a franchise.**

The tax provided in this Article is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. None of the terms of this Article mean that the Town grants any provider a franchise.



**Sec. 3-108. - Tax in lieu of certain other consideration.**

The tax levied in this Article is in lieu of all other occupation taxes on any provider subject to this Article. It is in addition to any otherwise applicable ad valorem taxes and other taxes and fees. It is in lieu of any free service furnished the Town by any provider.

**Sec. 3-109. - Violation of Section 5-84; penalty.**

Upon conviction, the Municipal Court shall punish any officer, agent or manager of a provider subject to this Article who fails, neglects or refuses to make or file the annual statement of accounts provided in **Section 3-104** by a fine of not more than two thousand six hundred and fifty dollars (\$2,650.00). Each day after the statement becomes delinquent during which the officer, agent or manager so fails, neglects or refuses to make and file such statement is a separate and distinct offense.

**Sec. 3-110. - Offenses and liabilities to continue.**

All offenses committed and all tax liabilities incurred before amendment of this Article, under prior versions of the telephone utility tax, shall be and remain unconditionally due and payable, shall constitute a debt to the Town and shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect.

**Secs. 3-111—3-120. - Reserved.**

**ARTICLE VII - Emergency Telephone Service Charge**

**Sec. 3-121. - Emergency telephone service authority.**

The Town is a member of the *Emergency Telephone Service Authority*, which is the governing body responsible for administering enhanced 911 operations. The Authority has the power to contract for the installation and operation of an emergency telephone service in all areas authorized by the establishing intergovernmental agreement.

**Sec. 3-122. - Fees.**

There is imposed pursuant to C.R.S. § 29-11-100.1, *et seq.*, as amended, upon all telephone exchange access facilities within the Town, an emergency telephone charge in an amount not to exceed the lesser of two percent (2%) of the tariff rate or fifty cents (\$.50) per month for those portions of the service area for which emergency telephone services are provided. The funds so collected shall be spent solely to pay for the equipment costs, installation costs, costs directly related to the continued operation of an emergency telephone service and for the monthly recurring charges billed by the service supplier for said service. The Board of Trustees may, by ordinance, raise or lower the emergency telephone charge, but in no event shall such charge exceed the amount annually set by the Colorado Public Utilities Commission in accordance with C.R.S. § 29-11-102, C.R.S. § 29-11-102.3, and C.R.S. § 29-11-102.5

**Sec. 3-123. – Collection.**

Telephone service suppliers providing telephone service in the Town are authorized to collect the emergency telephone charges imposed by this Article in accordance with C.R.S. § 29-11-

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100.1, *et seq.*, as amended, and to provide those funds to the Emergency Telephone Service Authority.

~~Secs. 3-124—3-130. — Reserved.~~

## **ARTICLE VIII - Municipal Procurement Procedures<sup>(2)</sup>**

Footnotes:

~~—(2)—~~

~~Editor's note — Ord. No. 2019-04, § 1, adopted Aug. 6, 2019, repealed the former Art. VII, §§ 4-121—4-130, and enacted a new Art. VII as set out herein. The former Art. VII pertained to similar subject matter and derived from Ord. No. 10-6-2015B, § 1, adopted Oct. 6, 2015; Ord. No. 2018-09, § 1, adopted Nov. 6, 2018.~~

~~Sec. 4-121~~

### **Sec. 3-131. - Application and definitions.**

(1) Except as set forth in ~~Subsection (3) Paragraph 1~~ below, the procurement procedures set forth in this Article shall apply to every purchase to which the Town is a party, provided that the Town may vary from these procedures when necessary to comply with state or federal grant requirements.

(2) The following words, terms and phrases, when used in this Article, shall have the following meanings, unless the context clearly indicates otherwise:

(a) "Bids" shall mean either bids or proposals submitted in response to a written invitation for bids or a written request for proposals.

(b) "Town Manager" shall mean the Town Manager and the Town Manager's designee.

(3) The following purchases shall be exempt from the requirements of this Article:

(a) Insurance and Benefits. The procurement of all insurance and benefits, including renewals or extensions and related recordkeeping services. Insurance and benefits will be procured in a generally competitive manner as determined by the Town Manager.

(b) Legal Services. Outside legal services, including related services, obtained by the Town Attorney's Office.

(c) Cooperative Purchasing. Products or services for which other public agencies have engaged in a competitive solicitation process and are able to have their bid prices extended to the Town, such as State Bid, GSA, or similar programs. The Town may also participate in joint procurements with other agencies in the Town's best interests. Town Manager approval is not required when cooperative purchases are made.

~~(Ord. No. 2019-04, § 1, 8-6-2019)~~

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**Sec. 4-1223-132, - General requirements and thresholds.**

- (1) Written document. Every purchase shall be evidenced by a written document.
- (2) Purchases of less than \$10,000. A purchase in an amount of ten thousand dollars (\$10,000.00) or less may be approved by a Department Director without Town Manager or Town Board action. Competitive bidding is not required. However, even on these items, periodic telephone/online checks should be made to be certain the purchases are obtained at the lowest cost for the quality desired.
- (3) Purchases of \$10,000 - \$25,000. A purchase in an amount of ten thousand dollars (\$10,000) to twenty-five thousand dollars (\$25,000.00) must be approved by the Town Manager. At least three written informal quotes must be solicited, unless an exception in Section 3-100, below, applies. When seeking written informal quotes, all quotes must be tabulated in detail and attached to the winning contract/invoice for future reference. If the recommended quote is not the lowest, an explanation must also accompany the contract/invoice.
- (4) Purchases in excess of \$25,000. Any item for services, projects, or equipment in this category must be approved by the Town Board of Trustees. The formal bid process set forth in Sections 4-100 and 5-100, below, must be followed unless an exception applies. Responsibility for the advertising of formal bids will be that of the Department Director overseeing the purchase.
- (5) Appropriation required. All expenditures for purchases shall be budgeted and appropriated. If a purchase is contemplated to extend beyond the current fiscal year, it must be subject to annual appropriation (unless otherwise permissible by elector vote or as determined by the Town Attorney).

(Ord. No. 2019-04, § I, 8-6-2019)

**Sec. 4-1223-133, - Comparative price quotations (between \$10,000 and \$25,000).**

- (1) When the amount of a purchase is between ten thousand dollars (\$10,000.00) and twenty-five thousand dollars (\$25,000.00), comparative price quotes by telephone, in person, or in writing from at least three (3) vendors or contractors shall be solicited, unless:
  - (a) The Town Manager determines that the public interest would be best served by negotiated contract with a single vendor or contractor or with specific vendors or contractors possessing unique skills or products or by joint purchase with or from another unit of government; or
  - (b) The Town Manager determines that the public interest would be best served by obtaining the goods or services through the formal bidding process.
- (2) In case of a declared or pronounced emergency affecting the public peace, health or safety, the Town Manager may waive all requirements for price quotes. In such cases, the Town Manager may direct the appropriate Department Director to procure emergency needs by informal, open-market procedures, at no more than current market prices, as expeditiously as possible.

(Ord. No. 2019-04, § I, 8-6-2019)

**Sec. 4-1243-134, - Formal bidding required (in excess of \$25,000).**

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(1) Formal bidding procedures shall be followed when the amount of a purchase exceeds twenty-five thousand dollars (\$25,000.00), unless the Town Board determines that the public interest will be best served by negotiated contract with a single vendor or contractor or with specific vendors or contractors possessing unique skills or products, or by joint purchase with or from another unit of government.

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(2) In case of a declared or pronounced emergency affecting the public peace, health or safety, the Town Manager, Mayor, or Board of Trustees may waive all requirements for formal bidding. In such cases, the Town Manager, Mayor, or Board of Trustees may direct the appropriate Department Director to procure emergency needs by informal, open-market procedures, at no more than current market prices, as expeditiously as possible. If the Town Manager or Mayor waived such requirements, the Town Manager or Mayor, as appropriate, shall present a full report of the circumstances necessitating the emergency action at the next Town Board meeting with the potential option to extend the waiver of requirements for formal bidding.

~~(Ord. No. 2019-04, § I, 8-6-2019)~~

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**Sec. 4-1253-135, - Formal bidding procedures and selection criteria.**

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(1) When formal bidding is required pursuant to ~~Section 4-1253~~, at least ten (10) days prior to the deadline for receipt of bids, a request or invitation for sealed bids shall be published at least once in an area newspaper, sent to three (3) or more potential bidders, or posted via electronic solicitation.

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(2) The Board of Trustees or Town Manager may pre-qualify vendors or contractors who wish to bid on Town purchases and limit acceptance of bids from such pre-qualified entities when determined to be in the best interests of the Town.

(3) Sealed bids shall be opened in public at the time and place stated in the public notice, unless all bidders have been notified of a change in such time or place by written addendum. A tabulation of all bids received shall be available for public inspection.

(4) After the bids have been reviewed, if the purchase will exceed the Town Manager's purchasing authority of twenty-five thousand dollars (\$25,000.00), the Town Manager shall submit a report to Town Board that contains an analysis of the bids, a recommendation for an award, and the reasons for the recommendation. The contract shall be awarded to the lowest responsible bidder meeting the bid specifications, unless it is determined that the public interest would be better served by accepting another bid. Unless otherwise prohibited by federal or state law, bidders which have maintained a physical location inside the limits of El Paso County for a period of more than 365 days prior to bid submission shall receive a ~~2%two percent (2%)~~ preference with respect to bid price and bidders which have maintained a physical location inside the limits of the Town of Green Mountain Falls for a period of more than 365 days prior to bid submission shall receive an additional ~~2%two percent (2%)~~ preference with respect to bid price.

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(5) In determining whether the public interest would be better served by accepting a bid other than the lowest bid, the following factors shall be considered:

(a) The bidder's skill, ability, and capacity to perform the services or to furnish the materials, equipment or supplies required;

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- (b) Whether the bidder can perform the services or furnish the materials, equipment or supplies promptly, or within the time period specified, without delay or interference;
- (c) The bidder's character, integrity, reputation, ~~judgment~~, experience, and efficiency;
- (d) The quality of the bidder's previous performance;
- (e) The bidder's previous and current compliance with statutes, ordinances and rules relating to the purchase;
- (f) The sufficiency of the bidder's financial resources necessary to perform the services or deliver the goods;
- (g) The bidder's ability to provide future maintenance or service; and
- (h) The number and nature of any conditions attached to the bid.

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(6) All bids may be rejected if it is determined that such action is in the public interest. Negotiations may be entered into with one or more bidders in an attempt to adjust the services, products, or bid price as the Town deems in the public interest, and no additional bidding shall be necessary.

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~~(Ord. No. 2019-04, § I, 8-6-2019)~~

#### **Sec. 4-1263-136, - Amendments to purchase agreements.**

- (1) The Town Manager shall have authority to approve an amendment to a purchase agreement when the change order does not exceed ~~ten percent (10%%)~~ of the original agreement price and combined with the original agreement does not exceed the approved appropriation for said purchase.
- (2) All other amendments to a purchase agreement previously approved by Town Board shall be approved or ratified by Town Board.

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~~(Ord. No. 2019-04, § I, 8-6-2019)~~

#### **Sec. 4-1273-137, - Principles and ethics.**

Every officer and employee of the Town is expressly prohibited from knowingly:

- (1) Seeking or accepting any personal gift or money directly or indirectly, from any person, company, firm or corporation in connection with a purchase.
- (2) Underestimating or exaggerating requirements to a prospective bidder for the purpose of influencing bids.
- (3) Misrepresenting the quality of a bidder's products or services.
- (4) Influencing the Town to make a purchase that will benefit the officer or employee, either directly or indirectly.
- (5) Approving a purchase in which any employee, elected or appointed officer of the Town has an interest, without the approval of the Town Manager or Town Board.

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(6) No single purchase transaction shall be subdivided for the purpose of circumventing the dollar value limitations of this Policy.

~~(Ord. No. 2019-04, § I, 8-6-2019)~~

**Sec. 4-128-138. - Special rules for procurements using federal funds.**

(1) No local or geographical preference shall be given to any vendor for projects in which the Town will receive or anticipates seeking federal funds as reimbursement for or contribution toward a Town contract or project. However, nothing in this Subsection prevents the Town from requiring a vendor to comply with any applicable state licensing laws or from applying such preference when federal law expressly mandates or encourages it. When contracting for architectural or engineering services, geographic location may be considered, provided that such consideration leaves an appropriate number of qualified firms to compete for the contract.

(2) Whenever the Town will receive or anticipates seeking federal funds as reimbursement for or any other form of payment or contribution toward a Town contract or project, the Town and any party contracting with the Town for such work shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business. and women's business enterprises;
- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (e) Using the services and assistance of the small business administration, and the minority business development agency of the department of commerce; and
- (f) Requiring general contractors, if subcontracts are to be let, to take the affirmative steps listed in subsections (2)(a) through (2)(f) of this Section.

~~(Ord. No. 2019-04, § I, 8-6-2019)~~

**Sec. 4-129-4-150. - Reserved.**

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## **CHAPTER 3 - Revenue and Finance**

### **ARTICLE I - General**

#### **Sec. 3-1. - Fiscal year same as calendar year.**

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

#### **Sec. 3-2. - Annual budget.**

Not later than the first regular meeting of the Board of Trustees in November of each year, the Budget Committee, or other duly authorized persons designated by the Board of Trustees, shall submit to the Board of Trustees the itemized annual budget for the ensuing fiscal year. The budget as approved by the Board of Trustees shall be adopted and administered in accordance with the provisions of the Local Government Budget Law of Colorado, C.R.S. § 29-1-101, *et seq.*, as amended.

#### **Sec. 3-3. - Rate of tax levy.**

The Board of Trustees shall by resolution fix the rate of tax to be levied upon all the taxable property within the Town for municipal purposes and, through the Town Clerk, shall officially certify said levy to the County Commissioners of El Paso and Teller Counties prior to December 16 of each year.

#### **Sec. 3-4. - Annual appropriation.**

The Board of Trustees shall pass an ordinance or resolution within the last quarter of each fiscal year for the next fiscal year appropriating sums of money as are necessary to cover the items in its budget and to defray all necessary expenses and liabilities of the Town, specifying the objects and purposes for which such appropriations are made and the amount appropriated for each object and purpose. The total amount appropriated shall not exceed the probably amount of revenue that will be collected during the fiscal year.

#### **Sec. 3-5. - Deposits and investments.**

The Town Treasurer shall deposit all of the funds and moneys which come into their possession by virtue of the office as Town Treasurer in one (1) or more responsible banks located in the State which have been designated by written resolution of the Board of Trustees. The Board of Trustees may also authorize the Town Treasurer by written resolution to invest all or any part of such funds in securities which are authorized for such investment by State law.

#### **Sec. 3-6. - Annual audit.**

The Board of Trustees shall select a qualified person or entity as auditor and cause to be made an annual audit of the financial affairs and transactions of the Town in accordance with the requirements of State law.

**Secs. 3-7—3-20. - Reserved.**

### **ARTICLE II - General and Special Funds**

#### **Sec. 3-21. - General Fund created.**



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

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

#### **Sec. 3-22. - Capital Improvement Fund.**

There is hereby established a special fund of the Town to be known as the Town of Green Mountain Falls Sales Tax Capital Improvement Fund.

#### **Sec. 3-23. - Conservation Trust Fund.**

There is hereby created a Conservation Trust Fund pursuant to the provisions of C.R.S. § 29-21-101, *et seq.*, and such fund shall be received, budgeted, appropriated and used in accordance with the provisions of State law.

**Secs. 3-33—4-40. - Reserved.**

### **ARTICLE III - Sales Tax**

#### **Sec. 3-41. - Purpose.**

The purpose of this Article is to impose a sales tax on the privilege of selling tangible personal property at retail and on the furnishing of services upon every retailer in the Town.

#### **Sec. 3-42. - Definitions.**

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

#### **Sec. 3-43. - General provisions; exemptions.**

- (a) For the purpose of collection, administration and enforcement of this Article the provisions of C.R.S. § 39-26-114 shall be deemed applicable and incorporated into this Article.
- (b) The amount subject to tax under this Article shall not include the state sales and use tax imposed by Article 26 of Chapter 39, C.R.S.
- (c) For the purpose of this Article, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer 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.
- (d) 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 Chapter 39, C.R.S., regardless of the place to which delivery is made.
- (e) In the event a retailer has no permanent place of business or more than one (1) place of business in the Town, the place or places at which the retail sales are consummated for the purpose



of this sales tax shall be determined by the provisions of Article 26 of Chapter 39, C.R.S., and by the rules and regulations promulgated by the Department of Revenue.

(f) For the purposes of collection, administration and enforcement of this Article, the sale of tangible personal property and services taxable pursuant to this Article shall be the same as the sale of tangible personal property and services taxable pursuant to C.R.S. § 39-26-104, as amended.

#### **Sec. 3-44. - Schedule of sales tax.**

(a) There is imposed, on all sales of tangible personal property and on the furnishing of all taxable services, a tax equal to two percent (2%) of the gross receipts.

(b) There is hereby imposed on all sales of tangible personal property and on the furnishing of all taxable services an additional tax equal to one percent (1%) of the gross receipts. This additional sales tax, by voter approval, is to be used for the purpose of maintaining current services, repair and replacement of Town road maintenance and snowplowing equipment, the purchase of road maintenance materials and the maintenance, repair and improvements of Town parks and recreational facilities.

(c) The imposition of tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue or by separate ordinance of the Town.

(d) The collection, administration and enforcement of this sales tax shall be performed by the Director of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26 of Chapter 39, C.R.S., as amended, and all rules and regulations promulgated by the Director of Revenue shall govern the collection, administration and enforcement of sales tax imposed by this Article.

**Secs. 3-45—3-60. - Reserved.**

### **ARTICLE IV - Use Tax**

#### **Sec. 3-61. - Definitions.**

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

#### **Sec. 3-62. - General provisions and exemptions.**

(a) The purpose of this Article is to impose a use tax of two percent (2%) thereof, and such additional use tax as may be approved by the voters of the Town, for the privilege of using or consuming in the Town any construction and building materials purchased at retail, and for storing, using and consuming in the Town any motor or other vehicles on which registration is required, purchased at retail or both.

(b) There is hereby imposed, effective July 1, 2004, an additional use tax of one percent (1%) thereof, by voter approval, for the privilege of using or consuming in the Town any construction and building materials purchased at retail, and for storing, using and consuming in the Town any motor or other vehicles on which registration is required, purchased at retail or both.

(c) The use tax shall not apply:

- (1) To the storage, use or consumption of any tangible personal property, the sale of which is subject to a retail sales tax imposed by the Town.
- (2) To the storage, use or consumption of 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.
- (3) To the storage, use or consumption of 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; however, 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 a business in the State.
- (4) To the storage, use or consumption of tangible personal property by the United States government or the State, or its institutions or political subdivisions, in their governmental capacities only, or by religious or charitable organizations in the conduct of their regular religious or charitable functions.
- (5) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing, or compounding for sale, use or profit, any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or furnished shipping case thereof.
- (6) To the storage, use or consumption of any article of tangible personal property, the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule town, city or city and county equal to or in excess of that imposed by this Article. A credit shall be granted against the use tax imposed by this Article with respect to a person's storage, use or consumption in the Town of tangible personal property purchased by him or her in a previous statutory or home rule town, city or city and county. The amount of the credit shall be equal to the tax paid by him or her by reason of the imposition of a sales or use tax of the previous statutory or home rule town, city or city and county on the purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Article.
- (7) To the storage, use or consumption of tangible personal property and household effects acquired outside of the Town and brought into it by a nonresident acquiring residency.
- (8) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the Town and he or she purchased the vehicle outside of the Town for use outside of the Town and actually so used it for a substantial and primary purpose for which it was acquired and he or she registered, titled and licensed said motor vehicle outside of the Town.
- (9) To the storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of such use tax.
- (10) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of this Article.

### **Sec. 3-63. - Collection, administration and enforcement of use tax.**

- (a) The use tax provided for in this Article shall be applicable to every motor vehicle for which registration is required by the laws of the State; no registration shall be made of any motor or other vehicle for which registration is not required; and no certificate of title shall be issued for such vehicle by the Department of Revenue or its authorized agents until any tax due upon the use, storage or consumption thereof pursuant to this Article has been paid.
- (b) The use tax imposed by this Article shall be collected by the authorized agents of the counties involved.
- (c) The proceeds of said use tax shall be paid to the Town in accordance with the agreement entered into by the appropriate agencies and the Town.
- (d) Use tax for construction and building materials shall be collected at the time the building permit application is submitted to the Town.

### **Sec. 3-64. - Revenues.**

- (a) Revenues collected by the two-percent use tax are to be used toward the payment of such municipal vehicles as the Board of Trustees determines are necessary and appropriate.
- (b) Revenues collected by the one-percent additional use tax, approved by the voters, are to be used for the purpose of maintaining current services, repair and replacement of Town road maintenance and snowplowing equipment, the purchase of road maintenance materials and the maintenance, repair and improvements of Town parks and recreational facilities.

### **Secs. 3-65—3-80. - Reserved.**

## **ARTICLE V - Lodging Occupation Tax**

### **Sec. 3-81. - Imposition of tax.**

- (a) The provision of lodging rooms and accommodations to the traveling public results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services such as police protection and has a substantial effect upon the health, safety and welfare of the citizens of the Town and upon the expenditures budgeted by the Town which is a matter of local concern.
- (b) The classification of the provision of lodging as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory, and necessary.
- (c) There is hereby levied by the Town an occupation tax on the provision of lodging upon every lodging business furnishing any room or accommodation for less than one (1) month or thirty (30) consecutive days within the Town in the amount of four dollars and fifty cents (\$4.50) per day, per occupied lodging room or accommodation.

### **Sec. 3-82. - Lodging defined.**

The provision of lodging means the transaction of furnishing rooms or accommodations to any person who, for monetary consideration, possesses or has the right to use or possess any room or rooms in a hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, short-term

rentals licensed pursuant to **Chapter 6, Article VIII, of this Code**, or any other place that furnishes sleeping accommodations under any concession, permit, right of access, license to use, other agreement or otherwise and for a period of less than thirty (30) consecutive days or which rental is on a weekly or daily basis.

### **Sec. 3-83. - Exemptions.**

Lodging Tax Exemptions. The following transactions shall be exempt from the tax imposed by this Article:

- (a) Accommodations provided by the United States, the State of Colorado, its departments and institutions, and the political subdivisions of the State in their governmental capacities only.
- (b) Accommodations provided by those charitable, religious and eleemosynary organizations that have received from the Internal Revenue Service status under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, while in the conduct of their regular charitable, religious or eleemosynary functions and activities.
- (c) Accommodations provided to a person who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, or other similar business pursuant to a written agreement for a period of at least one (1) month or thirty (30) consecutive days.
- (d) Accommodations provided to a person without monetary consideration being paid to the vendor for such accommodations.

### **Sec. 3-84. - Payment of tax.**

- (a) Every lodging business shall remit the lodging occupation tax not less than quarterly on account of lodging provided in the preceding quarter and not later than fifteen (15) days following the end of each quarter of the calendar year. Said payment shall be accompanied by a return containing such information and be in such form as the Town Clerk may prescribe.
- (b) The burden of providing that any transaction is exempt from the tax shall be upon the lodging business.

### **Sec. 3-85. - Penalty for late payment.**

In the event payment of the lodging tax is not timely made as provided in **Section 3-84**, the lodging business shall be required to pay unto the Town a fifteen percent (15%) penalty of the entire tax due for any given quarter.

### **Sec. 3-86. - Inspection of records.**

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

**Secs. 3-87—3-100. - Reserved.**

## **ARTICLE VI - Telephone Utilities Tax**

### **Sec. 3-101. - Definitions.**

As used in this Article:

- (1) *Base line count* means the total number of lines for which the incumbent provider provides basic local exchange service within the Town on January 1, 1998.
- (2) *Basic local exchange service* means basic local exchange service or basic service authorized by a certificate of public convenience and necessity, or otherwise, under Title 40, Article 15, C.R.S., as amended or recodified from time to time.
- (3) *Incumbent basic local exchange service provider or incumbent provider* means the company or entity providing basic local exchange service in the Town as of January 1, 1998.
- (4) *Inhabitant* means any individual, corporation, partnership, joint venture, company, firm, association, proprietorship or other entity residing or having a place of business within the Town.
- (5) *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, a *line* means a network access register, or its functional equivalent, provided to a customer at retail.
- (6) *New basic local exchange service provider or new provider* means any company or entity other than the incumbent provider who enters the business of providing basic local exchange service.
- (7) *New provider's initial line count* means the number of lines for which a new provider provides basic local exchange service within the Town thirty (30) days after that new provider's effective date, under **Section 3-103**.
- (8) *Provider* means a company or entity providing basic local exchange service through use of its own facilities, through resale or through any combination of the two.

**Sec. 3-102. - Tax levied; amount.**

- (a) There is levied on and against each provider operating within the Town, a tax on the occupation and business of providing basic local exchange service at retail to inhabitants of the Town.
- (b) The amount and payment rates of tax levied shall be as follows:
  - (1) The monthly tax rate to be paid by all providers shall be calculated by dividing the current annual amount of business and occupation tax paid by the incumbent provider, by the total number of lines for which a charge is made to all inhabitants on January 2, 1998 by all providers, the result of which shall be divided by twelve (12). Such formula can be represented as follows:

<u>The incumbent's current tax liability</u>	÷ 12 =	Per monthly line rate
Total lines of all current providers		

(2) The tax levied against each provider shall be calculated each August, shall be effective on the following January 1 and shall be payable on a quarterly basis, specifically, on March 31, June 30, September 30 and December 31 of each year.

(3) Each new provider that first becomes subject to this Article during any calendar year shall calculate its tax for that calendar year, as stated in paragraph (1) above, using as the number of provider lines, the number in the new provider's initial line count under **Section 3-104**. Each such new provider shall prorate the tax from and including the month of the effective date, under **Section 3-103**, through the end of that calendar year. Each such new provider that first becomes subject to this Article within the first ten (10) months of a tax year shall pay that prorated tax in equal quarterly payments, beginning the month of its statement of new provider's initial line count under **Section 3-104** of lines, and ending December 31 of that tax year. Each such new provider that first becomes subject to this Article during the last two (2) months of the tax year shall pay its total prorated tax within sixty (60) days of the effective date. For each such new provider, the tax for the following year shall be computed as stated in paragraph (2) above, using, as the number of provider lines, the number in either the new provider's initial line count, or its June 30 statement of lines for the preceding year (if any), under **Section 3-104**, whichever statement comes later.

#### **Sec. 3-103. - Effective date; schedule of payments.**

For each provider, the tax levied by this Article shall commence on January 1, 1998, or on the date the provider first provides basic local exchange service with the Town, whichever is later. Except as this Article may otherwise provide, the tax shall be due and payable in quarterly payments.

#### **Sec. 3-104. - Initial and annual statements of company lines.**

An incumbent provider shall, on January 2, 1998, determine the total number of lines for which it then provides basic local exchange service within the Town (the base line count), and shall, by March 15, 1998, file with the Town Clerk a statement showing its determined total number of lines. On June 30 of each calendar year, each provider then subject to this Article shall determine the total number of lines for which it then provides basic local exchange service within the Town. By July 30 of the same calendar year, each such provider shall file with the Town Clerk a statement showing its determined total number of lines. In addition, a new provider that first becomes subject to this Article during any calendar year shall, thirty (30) days after that new provider's effective date under **Section 3-103**, determine the number of lines for which it provides basic local exchange service within the Town (new provider's initial line count), and shall file its statement of that number within sixty (60) days after the effective date. All statements shall be in such form as the Town Clerk may require, including oaths, verifications or acknowledgments.

#### **Sec. 3-105. - Failure to pay; penalty; Town action to collect.**

If any provider subject to this Article fails to pay the taxes as provided in **Section 3-102**, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, is a debt due and owing from such provider to the Town. The Town may commence and prosecute to final judgment, in any court of competent jurisdiction, an action at law to collect the debt.

#### **Sec. 3-106. - Inspection of records.**

To enforce this Article, the Town and its officers, agents or representatives shall have the right, at all reasonable hours and times, to examine and copy the books and records of every provider subject to this Article. They shall use these books, records and copies only to enforce this Article. Except under a court order, or in connection with enforcing this Article, they shall not divulge these books, records or copies to any other person.

**Sec. 3-107. - Tax not on interstate commerce; not a franchise.**

The tax provided in this Article is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. None of the terms of this Article mean that the Town grants any provider a franchise.

**Sec. 3-108. - Tax in lieu of certain other consideration.**

The tax levied in this Article is in lieu of all other occupation taxes on any provider subject to this Article. It is in addition to any otherwise applicable ad valorem taxes and other taxes and fees. It is in lieu of any free service furnished the Town by any provider.

**Sec. 3-109. - Violation of Section 5-84; penalty.**

Upon conviction, the Municipal Court shall punish any officer, agent or manager of a provider subject to this Article who fails, neglects or refuses to make or file the annual statement of accounts provided in **Section 3-104** by a fine of not more than two thousand six hundred and fifty dollars (\$2,650.00). Each day after the statement becomes delinquent during which the officer, agent or manager so fails, neglects or refuses to make and file such statement is a separate and distinct offense.

**Sec. 3-110. - Offenses and liabilities to continue.**

All offenses committed and all tax liabilities incurred before amendment of this Article, under prior versions of the telephone utility tax, shall be and remain unconditionally due and payable, shall constitute a debt to the Town and shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect.

**Secs. 3-111—3-120. - Reserved.**

**ARTICLE VII - Emergency Telephone Service Charge**

**Sec. 3-121. - Emergency telephone service authority.**

The Town is a member of the *Emergency Telephone Service Authority*, which is the governing body responsible for administering enhanced 911 operations. The Authority has the power to contract for the installation and operation of an emergency telephone service in all areas authorized by the establishing intergovernmental agreement.

**Sec. 3-122. - Fees.**

There is imposed pursuant to C.R.S. § 29-11-100.1, *et seq.*, as amended, upon all telephone exchange access facilities within the Town, an emergency telephone charge in an amount not to exceed the lesser of two percent (2%) of the tariff rate or fifty cents (\$.50) per month for those



portions of the service area for which emergency telephone services are provided. The funds so collected shall be spent solely to pay for the equipment costs, installation costs, costs directly related to the continued operation of an emergency telephone service and for the monthly recurring charges billed by the service supplier for said service. The Board of Trustees may, by ordinance, raise or lower the emergency telephone charge, but in no event shall such charge exceed the amount annually set by the Colorado Public Utilities Commission in accordance with C.R.S. § 29-11-102, C.R.S. § 29-11-102.3, and C.R.S. § 29-11-102.5

### **Sec. 3-123. – Collection.**

Telephone service suppliers providing telephone service in the Town are authorized to collect the emergency telephone charges imposed by this Article in accordance with C.R.S. § 29-11-100.1, *et seq.*, as amended, and to provide those funds to the Emergency Telephone Service Authority.

### **Secs. 3-124—3-130. – Reserved.**

## **ARTICLE VIII - Municipal Procurement Procedures**

### **Sec. 3-131. - Application and definitions.**

- (1) Except as set forth in **Paragraph 3** below, the procurement procedures set forth in this Article shall apply to every purchase to which the Town is a party, provided that the Town may vary from these procedures when necessary to comply with state or federal grant requirements.
- (2) The following words, terms and phrases, when used in this Article. shall have the following meanings, unless the context clearly indicates otherwise:
  - (a) "Bids" shall mean either bids or proposals submitted in response to a written invitation for bids or a written request for proposals.
  - (b) "Town Manager" shall mean the Town Manager and the Town Manager's designee.
- (3) The following purchases shall be exempt from the requirements of this Article:
  - (a) Insurance and Benefits. The procurement of all insurance and benefits, including renewals or extensions and related recordkeeping services. Insurance and benefits will be procured in a generally competitive manner as determined by the Town Manager.
  - (b) Legal Services. Outside legal service s, including related services, obtained by the Town Attorney's Office.
  - (c) Cooperative Purchasing. Products or services for which other public agencies have engaged in a competitive solicitation process and are able to have their bid prices extended to the Town, such as State Bid, GSA, or similar programs. The Town may also participate in joint procurements with other agencies in the Town's best interests. Town Manager approval is not required when cooperative purchases are made.

### **Sec. 3-132. - General requirements and thresholds.**

- (1) Written document. Every purchase shall be evidenced by a written document.



(2) Purchases of less than \$10,000. A purchase in an amount of ten thousand dollars (\$10,000.00) or less may be approved by a Department Director without Town Manager or Town Board action. Competitive bidding is not required. However, even on these items, periodic telephone/online checks should be made to be certain the purchases are obtained at the lowest cost for the quality desired.

(3) Purchases of \$10,000 - \$25,000. A purchase in an amount of ten thousand dollars (\$10,000) to twenty-five thousand dollars (\$25,000.00) must be approved by the Town Manager. At least three written informal quotes must be solicited, unless an exception in **Section 3-133**, below, applies. When seeking written informal quotes, all quotes must be tabulated in detail and attached to the winning contract/invoice for future reference. If the recommended quote is not the lowest, an explanation must also accompany the contract/invoice.

(4) Purchases in excess of \$25,000. Any item for services, projects, or equipment in this category must be approved by the Town Board of Trustees. The formal bid process set forth in **Sections 3-134 and 3-135**, below, must be followed unless an exception applies. Responsibility for the advertising of formal bids will be that of the Department Director overseeing the purchase.

(5) Appropriation required. All expenditures for purchases shall be budgeted and appropriated. If a purchase is contemplated to extend beyond the current fiscal year, it must be subject to annual appropriation (unless otherwise permissible by elector vote or as determined by the Town Attorney).

#### **Sec. 3-133. - Comparative price quotations (between \$10,000 and \$25,000).**

(1) When the amount of a purchase is between ten thousand dollars (\$10,000.00) and twenty-five thousand dollars (\$25,000.00), comparative price quotes by telephone, in person, or in writing from at least three (3) vendors or contractors shall be solicited, unless:

(a) The Town Manager determines that the public interest would be best served by negotiated contract with a single vendor or contractor or with specific vendors or contractors possessing unique skills or products or by joint purchase with or from another unit of government; or

(b) The Town Manager determines that the public interest would be best served by obtaining the goods or services through the formal bidding process.

(2) In case of a declared or pronounced emergency affecting the public peace, health or safety, the Town Manager may waive all requirements for price quotes. In such cases, the Town Manager may direct the appropriate Department Director to procure emergency needs by informal, open-market procedures, at no more than current market prices, as expeditiously as possible.

#### **Sec. 3-134. - Formal bidding required (in excess of \$25,000).**

(1) Formal bidding procedures shall be followed when the amount of a purchase exceeds twenty-five thousand dollars (\$25,000.00), unless the Town Board determines that the public interest will be best served by negotiated contract with a single vendor or contractor or with specific vendors or contractors possessing unique skills or products, or by joint purchase with or from another unit of government.

(2) In case of a declared or pronounced emergency affecting the public peace, health or safety, the Town Manager, Mayor, or Board of Trustees may waive all requirements for formal bidding.

In such cases, the Town Manager, Mayor, or Board of Trustees may direct the appropriate Department Director to procure emergency needs by informal, open-market procedures, at no more than current market prices, as expeditiously as possible. If the Town Manager or Mayor waived such requirements, the Town Manager or Mayor, as appropriate, shall present a full report of the circumstances necessitating the emergency action at the next Town Board meeting with the potential option to extend the waiver of requirements for formal bidding.

**Sec. 3-135. - Formal bidding procedures and selection criteria.**

- (1) When formal bidding is required pursuant to **Section 3-134**, at least ten (10) days prior to the deadline for receipt of bids, a request or invitation for sealed bids shall be published at least once in an area newspaper, sent to three (3) or more potential bidders, or posted via electronic solicitation.
- (2) The Board of Trustees or Town Manager may pre-qualify vendors or contractors who wish to bid on Town purchases and limit acceptance of bids from such pre-qualified entities when determined to be in the best interests of the Town.
- (3) Sealed bids shall be opened in public at the time and place stated in the public notice, unless all bidders have been notified of a change in such time or place by written addendum. A tabulation of all bids received shall be available for public inspection.
- (4) After the bids have been reviewed, if the purchase will exceed the Town Manager's purchasing authority of twenty-five thousand dollars (\$25,000.00), the Town Manager shall submit a report to Town Board that contains an analysis of the bids, a recommendation for an award, and the reasons for the recommendation. The contract shall be awarded to the lowest responsible bidder meeting the bid specifications, unless it is determined that the public interest would be better served by accepting another bid. Unless otherwise prohibited by federal or state law, bidders which have maintained a physical location inside the limits of El Paso County for a period of more than 365 days prior to bid submission shall receive a two percent (2%) preference with respect to bid price and bidders which have maintained a physical location inside the limits of the Town of Green Mountain Falls for a period of more than 365 days prior to bid submission shall receive an additional two percent (2%) preference with respect to bid price.
- (5) In determining whether the public interest would be better served by accepting a bid other than the lowest bid, the following factors shall be considered:
  - (a) The bidder's skill, ability, and capacity to perform the services or to furnish the materials, equipment or supplies required;
  - (b) Whether the bidder can perform the services or furnish the materials, equipment or supplies promptly, or within the time period specified, without delay or interference;
  - (c) The bidder's character, integrity, reputation, judgment, experience, and efficiency;
  - (d) The quality of the bidder's previous performance;
  - (e) The bidder's previous and current compliance with statutes, ordinances and rules relating to the purchase;
  - (f) The sufficiency of the bidder's financial resources necessary to perform the services or deliver the goods;
  - (g) The bidder's ability to provide future maintenance or service; and

- (h) The number and nature of any conditions attached to the bid.
- (6) All bids may be rejected if it is determined that such action is in the public interest. Negotiations may be entered into with one or more bidders in an attempt to adjust the services, products, or bid price as the Town deems in the public interest, and no additional bidding shall be necessary.

**Sec. 3-136. - Amendments to purchase agreements.**

- (1) The Town Manager shall have authority to approve an amendment to a purchase agreement when the change order does not exceed ten percent (10%) of the original agreement price and combined with the original agreement does not exceed the approved appropriation for said purchase.
- (2) All other amendments to a purchase agreement previously approved by Town Board shall be approved or ratified by Town Board.

**Sec. 3-137. - Principles and ethics.**

Every officer and employee of the Town is expressly prohibited from knowingly:

- (1) Seeking or accepting any personal gift or money directly or indirectly, from any person, company, firm or corporation in connection with a purchase.
- (2) Underestimating or exaggerating requirements to a prospective bidder for the purpose of influencing bids.
- (3) Misrepresenting the quality of a bidder's products or services.
- (4) Influencing the Town to make a purchase that will benefit the officer or employee, either directly or indirectly.
- (5) Approving a purchase in which any employee, elected or appointed officer of the Town has an interest, without the approval of the Town Manager or Town Board.
- (6) No single purchase transaction shall be subdivided for the purpose of circumventing the dollar value limitations of this Policy.

**Sec. 3-138. - Special rules for procurements using federal funds.**

- (1) No local or geographical preference shall be given to any vendor for projects in which the Town will receive or anticipates seeking federal funds as reimbursement for or contribution toward a Town contract or project. However, nothing in this Subsection prevents the Town from requiring a vendor to comply with any applicable state licensing laws or from applying such preference when federal law expressly mandates or encourages it. When contracting for architectural or engineering services, geographic location may be considered, provided that such consideration leaves an appropriate number of qualified firms to compete for the contract.
- (2) Whenever the Town will receive or anticipates seeking federal funds as reimbursement for or any other form of payment or contribution toward a Town contract or project, the Town and any party contracting with the Town for such work shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business. and women's business enterprises;
- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (e) Using the services and assistance of the small business administration, and the minority business development agency of the department of commerce; and
- (f) Requiring general contractors, if subcontracts are to be let, to take the affirmative steps listed in subsections (2)(a) through (2)(e) of this Section.

## **CHAPTER 5-4 – Franchises and Communication Systems**

### **ARTICLE I –Cable Television System– Franchises**

#### **Sec. 5-1–Definition of terms.**

For the purpose of this Franchise Agreement, capitalized terms, phrases, words and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, 47 U.S.C. § 521, et seq.

(the "Cable Act"), unless otherwise defined herein.

*Customer* means a Person or user of the cable system who lawfully receives Cable Service therefrom with the Grantee's express permission.

*Effective Date* means the date on which all Persons necessary to sign this Agreement in order for it to be binding on both parties have executed this Agreement as indicated on the signature pages, unless a specific date is otherwise provided in Subsection 5-2(b) below.

*FCC* means the Federal Communications Commission, or successor governmental entity thereto.

*Franchise* means the initial authorization, or renewal thereof, issued by the Franchising **1. – Authority**, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System **to Franchise**.

*Franchise Agreement* or *Agreement* shall mean this Agreement and any amendments or modifications hereto.

*Franchise Area* means the present legal boundaries of the Town as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

*Franchising Authority* means the Town or the lawful successor, transferee, designee or assignee thereof.

*Grantee* shall mean Comcast of Colorado VI, LLC. *Gross Revenue* means the Cable Service revenue derived by the Grantee from the operation of the cable system in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles. Cable service revenue includes monthly basic, premium and pay-per-view video fees, advertising and home shopping revenue, installation fees and equipment rental fees. *Gross Revenue* shall not include refundable deposits, bad debt, late fees, investment income, programming launch support payments, advertising sales commissions or any taxes, fees or assessments imposed or assessed by any governmental authority.

*Person* means any natural Person or any association, firm, partnership, joint venture, corporation or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

*Public Way* shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, Public Way, drive, circle or other public right-of-way, including but not limited to public utility easements, dedicated utility strips or easements dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon, now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. *Public Way* shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall

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include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing, operating and maintaining the Grantee's cable system over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to the cable system.

(Ord. 02-2010)

~~Sec. 5-2. Grant of authority.~~

- ~~(a) The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a cable system in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the cable system, and to provide such services over the cable system as may be lawfully allowed.~~
- ~~(b) Term of Franchise. The term of the Franchise granted hereunder shall be five (5) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and the Cable Act.~~
- ~~(c) Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act.~~
- ~~(d) Reservation of Authority. Nothing in this Franchise Agreement shall: (1) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description; (2) be construed as a waiver of any codes or ordinances of general applicability promulgated by the Franchising Authority; or (3) be construed as a waiver or release of the rights of the Franchising Authority in and to the Public Ways.~~

(Ord. 02-2010)

~~Sec. 5-3. Construction and maintenance of cable system.~~

- ~~(a) Permits and general obligations. The Grantee shall be responsible for obtaining, at its own cost and expense, all generally applicable permits, licenses or other forms of approval or authorization necessary to construct, operate, maintain or repair the cable system, or any part thereof, prior to the commencement of any such activity. Construction, installation and maintenance of the cable system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, other lines and equipment installed by the Grantee for use in the cable system in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.~~
- ~~(b) Conditions of street occupancy.~~
  - ~~(1) New grades or lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than ten [10] business days) and at its own cost and expense, protect or promptly alter or relocate the cable system, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall notify the Grantee of such funding and make available such funds to the Grantee.~~

- ~~(2) —Relocation at request of third party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided that (i) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Grantee is given not less than ten (10) business days' advance written notice to arrange for such temporary relocation.~~
- ~~(3) —Restoration of Public Ways. If, in connection with the construction, operation, maintenance or repair of the cable system, the Grantee disturbs, alters or damages any Public Way, the Grantee agrees that it shall, at its own cost and expense, replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance.~~
- ~~(4) —Safety requirements. The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the cable system shall be performed in substantial accordance with applicable FCC or other federal and state regulations. The cable system shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.~~
- ~~(5) —Trimming of trees and shrubbery. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its cable system in the Franchise Area so as to prevent contact with the Grantee's wires, cables or other equipment. All such trimming shall be done at the Grantee's sole cost and expense. The Grantee shall be responsible for any damage caused by such trimming.~~
- ~~(6) —Aerial and underground construction. At the time of cable system construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its cable system's transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the cable system's signal quality. In any regions of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the Grantee to construct, operate or maintain underground any ground-mounted appurtenances such as Customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals or other related equipment.~~
- ~~(7) —Undergrounding and beautification projects. In the event all users of the Public Way relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, the Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. The Grantee's relocation costs shall be included in any computation of necessary project funding by the municipality or private parties. The Grantee shall be entitled to reimbursement of its relocation costs from public or private funds raised for the project and made available to other users of the Public Way.~~

~~(Ord. 02-2010)~~

~~Sec. 5-4. —Service obligations.~~

~~(a) —General service obligation.~~

- ~~(1) —The Grantee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per mile and is within one (1) mile of the existing cable system. Subject to the density requirement, the Grantee~~

shall offer Cable Service to all new homes or previously unserved homes located within one hundred twenty-five (125) feet of the Grantee's distribution cable.

- (2) ~~The Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop-in or line extension in excess of the above standards. Any such additional charge shall be computed on a time plus materials basis, to be calculated on that portion of the installation that exceeds the standards set forth above.~~

~~(b) Programming. The Grantee shall offer to all Customers a diversity of video programming services.~~

~~(c) No discrimination. The Grantee shall not discriminate or permit discrimination between or among any Persons in the availability of Cable Services or other services provided in connection with the cable system in the Franchise Area. It shall be the right of all Persons to receive all available services provided on the cable system so long as such Person's financial or other obligations to the Grantee are satisfied. Nothing contained herein shall prohibit the Grantee from offering bulk discounts, promotional discounts, package discounts or other such pricing strategies as part of its business practice.~~

~~(d) New developments. The Franchising Authority shall provide the Grantee with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require the developer, as a condition of issuing the permit, to give the Grantee access to open trenches for deployment of cable facilities and at least ten (10) business days' written notice of the date of availability of open trenches.~~

~~(Ord. 02-2010)~~

#### ~~Sec. 5-5. Fees and charges to Customers.~~

~~All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations. Before any new or modified rate, fee or charge is imposed, the Grantee shall follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law.~~

~~(Ord. 02-2010)~~

#### ~~Sec. 5-6. Customer service standards; Customer bills; privacy protection.~~

~~(a) Customer service standards. The Franchising Authority hereby adopts the Customer service standards set forth in Part 76, § 76.309 of the FCC's rules and regulations. The Grantee shall comply in all respects with the Customer service requirements established by the FCC.~~

~~(b) Customer bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that: (1) is not misleading; and (2) does not omit material information. Notwithstanding anything to the contrary in Subsection (a) above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. § 542(c)).~~

~~(c) Privacy protection. The Grantee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.~~

~~(Ord. 02-2010)~~

#### ~~Sec. 5-7. Oversight and regulation by Franchising Authority.~~



- (a) ~~Franchise fees. The Grantee shall pay to the Franchising Authority a franchise fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the cable system to provide Cable Service in the Franchise Area; provided, however, that the Grantee shall not be compelled to pay any higher percentage of franchise fees than any other video service provider providing service in the Franchise Area. The payment of franchise fees shall be made on a quarterly basis and shall be due within forty-five (45) days after the close of each calendar quarter. Each franchise fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the franchise fees paid during that period.~~
- (b) ~~Franchise fees subject to audit.~~
- (1) ~~Upon reasonable prior written notice, during normal business hours at the Grantee's principal business office, the Franchising Authority shall have the right to inspect the Grantee's financial records used to calculate the Franchising Authority's franchise fees; provided, however, that any such inspection shall take place within two (2) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.~~
- (2) ~~Upon the completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final report setting forth the Franchising Authority's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a finally settled amount. For purposes of this Section, the term *finally settled amount* shall mean the agreed-upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. If the parties cannot agree on a final settlement amount, the parties shall submit the dispute to a mutually agreed-upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.~~
- (3) ~~Any finally settled amount due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Grantee within thirty (30) days from the date the parties agree upon the finally settled amount. Once the parties agree upon a finally settled amount and such amount is paid by the Grantee, the Franchising Authority shall have no further rights to audit or challenge the payment for that period. The Franchising Authority shall bear the expense of its audit of the Grantee's books and records.~~
- (c) ~~Oversight of Franchise. In accordance with applicable law, the Franchising Authority shall have the right to, on reasonable prior written notice and in the presence of the Grantee's employee, periodically inspect the construction and maintenance of the cable system in the Franchise Area as necessary to monitor the Grantee's compliance with the provisions of this Franchise Agreement.~~
- (d) ~~Technical standards. The Grantee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. § 76. To the extent those standards are altered, modified or amended during the term of this Franchise, the Grantee shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The Franchising Authority shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.~~
- (e) ~~Maintenance of books, records and files.~~
- (1) ~~Books and records. Throughout the term of this Franchise Agreement, the Grantee agrees that the Franchising Authority may review the Grantee's books and records regarding Customer service performance levels in the Franchise Area to monitor the Grantee's compliance with the provisions of this Franchise Agreement, upon reasonable prior written notice to the Grantee, at the Grantee's business office during normal business hours and without unreasonably interfering with the Grantee's business operations. All such documents that may be the subject of an inspection by the Franchising Authority shall be retained by the Grantee for a minimum period of three (3) years.~~

(2) —Proprietary information. Notwithstanding anything to the contrary set forth in this Section, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives and agents of the Franchising Authority who have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. The Grantee shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this Section, the terms *proprietary or confidential* include, but are not limited to, information relating to the cable system design, Customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules or other information that is reasonably determined by the Grantee to be competitively sensitive. The Grantee may make proprietary or confidential information available for inspection but not copying or removal by the Franchise Authority's representative. In the event that the Franchising Authority has in its possession and receives a request under a state "sunshine," public records or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Franchising Authority shall notify the Grantee of such request and cooperate with the Grantee in opposing such request.

(Ord. 02-2010)

~~Sec. 5-8.—Transfer of cable system or Franchise or control of Grantee.~~

Neither the Grantee nor any other Person may transfer the cable system or the Franchise without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. No transfer of control of the Grantee, defined as an acquisition of fifty-one percent (51%) or greater ownership interest in the Grantee, shall take place without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation or by assignment of any rights, title or interest of the Grantee in the Franchise or in the cable system in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation. Within thirty (30) days of receiving a request for consent, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the Franchising Authority has not taken final action on the Grantee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed granted.

(Ord. 02-2010)

~~Sec. 5-9.—Insurance and indemnity.~~

(a) —Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain comprehensive general liability insurance and provide the Franchising Authority certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of one million dollars (\$1,000,000.00) for bodily injury or death to any one (1) Person, and one million dollars (\$1,000,000.00) for bodily injury or death of any two (2) or more Persons resulting from one (1) occurrence, and one million dollars (\$1,000,000.00) for property damage resulting from any one (1) accident. Such policy or policies shall be noncancelable except upon thirty (30) days' prior written notice to the Franchising Authority. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Franchising Authority from any workers' compensation claims to which the Grantee may become subject during the term of this Franchise Agreement.

(b) — Indemnification. The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees and agents from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Grantee's construction, operation, maintenance or removal of the cable system, including but not limited to reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

(Ord. 02-2010)

~~Sec. 5-10. — System description and service.~~

- (a) — System capacity. During the term of this Agreement, the Grantee's cable system shall be capable of providing a minimum of eighty-five (85) channels of video programming with satisfactory reception available to its Customers in the Franchise Area.
- (b) — Service to school buildings. The Grantee shall provide free basic Cable Service and free installation at one (1) outlet to each public and private school, not including home schools, located in the Franchise Area within one hundred twenty-five (125) feet of the Grantee's distribution cable.
- (c) — Service to governmental and institutional facilities. The Grantee shall provide free basic Cable Service and free installation at one (1) outlet to each municipal building located in the Franchise Area within one hundred twenty-five (125) feet of the Grantee's distribution cable. Municipal buildings are those buildings owned or leased by the Franchising Authority for government administrative purposes, and shall not include buildings owned by the Franchising Authority but leased to third parties or buildings, such as storage facilities at which government employees are not regularly stationed.

(Ord. 02-2010)

~~Sec. 5-11. — Enforcement and termination of Franchise.~~

- (a) — Notice of violation or default. In the event the Franchising Authority believes that the Grantee has not complied with the material terms of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default.
- (b) — Grantee's right to cure or respond. The Grantee shall have forty-five (45) days from the receipt of the Franchising Authority's written notice: (1) to respond to the Franchising Authority contesting the assertion of noncompliance or default; (2) to cure such default; or (3) in the event that, by nature of the default, such default cannot be cured within the forty-five day period, to initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that the cure will be completed.
- (c) — Public hearings. In the event the Grantee fails to respond to the Franchising Authority's notice or in the event that the alleged default is not remedied within forty-five (45) days or the date projected by the Grantee, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time that is no less than ten (10) business days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.
- (d) — Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such public hearing, determines that the Grantee is in default of any material provision of the Franchise, the Franchising Authority may:

(1) ~~Seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages or seek other equitable relief; or~~

(2) ~~In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:~~

a. ~~The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including two (2) or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a response from the Grantee or upon receipt of the response does not agree with the Grantee's proposed remedy, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least ten (10) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request termination of the Franchise.~~

b. ~~At the designated hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Franchising Authority shall be in writing and shall be delivered to the Grantee by certified mail. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority *de novo* and to modify or reverse such decision as justice may require.~~

(e) ~~Technical violation. The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breaches or violations of the Franchise, which shall include, but not be limited to, the following:~~

(1) ~~In instances or for matters where a violation or a breach of the Franchise by the Grantee was a good-faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or~~

(2) ~~Where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.~~

(Ord. 02-2010)

#### ~~Sec. 5-12. Competitive equity.~~

(a) ~~Purposes. The Grantee and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers and others; new technologies are emerging that enable the provision of new and advanced services to Town residents; and changes in the scope and application of the traditional regulatory framework governing the provision of video services are being considered in a variety of federal, state and local venues. To foster an environment where video service providers using the public rights-of-way can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to Town residents; promote local communications infrastructure investments and economic opportunities in the Town; and provide flexibility in the event of subsequent changes in the law, the Grantee and the Franchising Authority have agreed to the provisions in this Section, and they should be interpreted and applied with such purposes in mind.~~

(b) ~~New video service provider.~~

- (1) ~~Notwithstanding any other provision of this Agreement or any other provision of law, if any Video Service Provider ("VSP") (i) enters into any agreement with the Franchising Authority to provide video services to subscribers in the Town; or (ii) otherwise begins to provide video services to subscribers in the Town (with or without entering into an agreement with the Franchising Authority), the Franchising Authority, upon written request of the Grantee, shall permit the Grantee to construct and operate its cable system and to provide video services to subscribers in the Town under the same agreement and/or under the same terms and conditions as apply to the new VSP. The Grantee and the Franchising Authority shall enter into an agreement or other appropriate authorization (if necessary) containing the same terms and conditions as are applicable to the VSP within sixty (60) days after the Grantee submits a written request to the Franchising Authority.~~
- (2) ~~If there is no written agreement or other authorization between the new VSP and the Franchising Authority, the Grantee and the Franchising Authority shall use the sixty-day period to develop and enter into an agreement or other appropriate authorization (if necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Grantee and other VSPs, taking into account the terms and conditions under which other VSPs are allowed to provide video services to subscribers in the Town.~~
- (c) ~~Subsequent change in law. If there is a change in federal, state or local law that provides for a new or alternative form of authorization for a VSP to provide video services to subscribers in the City, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP providing video services to subscribers in the Town, the Franchising Authority agrees that, notwithstanding any other provision of law, upon the Grantee's written request, the Franchising Authority shall: (i) permit the Grantee to provide video services to subscribers in the Town on the same terms and conditions as are applicable to a VSP under the changed law; (ii) modify this Agreement to comply with the changed law; or (iii) modify this Agreement to ensure competitive equity between the Grantee and other VSPs, taking into account the conditions under which other VSPs are permitted to provide video services to subscribers in the Town. The Franchising Authority and the Grantee shall implement the provisions of this Section within sixty (60) days after the Grantee submits a written request to the Franchising Authority. Notwithstanding any provision of law that imposes a time or other limitation on the Grantee's ability to take advantage of the changed law's provisions, the Grantee may exercise its rights under this Section at any time, but not sooner than thirty (30) days after the changed law goes into effect.~~
- (d) ~~Effect on this Agreement. Any agreement, authorization, right or determination to provide video services to subscribers in the Town under Subsections (b) or (c) of this Section shall supersede this Agreement, and the Grantee, at its option, may terminate this Agreement or portions thereof, upon written notice to the Franchising Authority, without penalty or damages.~~
- (e) ~~The term *Video Service Provider* or VSP shall mean any entity using the public rights-of-way to provide multiple video programming services to subscribers, for purchase or at no cost, regardless of the transmission method, facilities or technology used. A VSP shall include, but is not limited to, any entity that provides Cable Services, multichannel multipoint distribution services, broadcast satellite services, satellite-delivered services, wireless services and Internet Protocol-based services.~~

~~(Ord. 02-2010)~~

~~Sec. 5-13. — Miscellaneous provisions:~~

- (a) ~~Force majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the cable system, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This~~

provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary.

- (b) — Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first-class mail, certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Franchising Authority:

Town of Green Mountain Falls  
Attn: Town Clerk  
P.O. Box 524  
Green Mountain Falls, CO 80819

To the Grantee:

Comcast of Colorado/Pennsylvania/West Virginia, LLC: Comcast Cable  
Attn: Government Affairs  
8000 E. Iliff  
Denver, CO 80231

with a copy to:

Attn: General Manager  
213 N. Union Blvd.  
Colorado Springs, CO 80909

- (c) — Entire Agreement. This Franchise Agreement, including all exhibits, embodies the entire understanding and agreement of the Franchising Authority and the Grantee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral. All ordinances or parts of ordinances that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.
- (d) — Severability. If any Section, Subsection, sentence, clause, phrase or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.
- (e) — Governing law. This Franchise Agreement shall be deemed to be executed in the State and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State, as applicable to contracts entered into and performed entirely within the State.
- (f) — Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.
- (g) — No third-party beneficiaries. Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.
- (h) — No waiver of rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, that the Grantee may have under federal or state law unless such waiver is expressly stated herein.

(Ord. 02-2010)

~~Secs. 5-14—5-30.—Reserved.~~

## ~~ARTICLE II—Electric Franchise~~

### ~~Sec. 5-31.—Grant of Franchise.~~

~~From January 1, 2010, and for the full term of ten (10) years thereafter, Colorado Springs Utilities, an enterprise of the City of Colorado Springs, a municipal corporation organized and existing under the laws of the State, hereinafter referred to as "Utilities," its successors and assigns, be, and it hereby is, granted the exclusive right, license and authority to acquire, construct, maintain, own and operate within the Town of Green Mountain Falls, hereinafter referred to as the Town, an electric transmission and distribution system; and to distribute and sell electricity in the Town for light, heat, power or other useful purpose to all Persons, associations or corporations, either public or private, desiring the same.~~

~~(Ord. 02-2009)~~

### ~~Sec. 5-32.—Construction and maintenance.~~

~~For the purpose of exercising such exclusive right, license and authority, Utilities, its successors and assigns, is hereby granted permission, license and authority to acquire, construct, own, maintain and operate along, upon or under the streets, alleys and public places of the Town and all extensions thereof, such lines, poles, wires and other electrical conductors, together with all necessary fixtures and appliances as may be necessary or useful in the conduct of said business. Utilities, by accepting and acting under this Article, agrees for itself, its successors and assigns, that it will locate, construct and maintain its transmission and distribution lines and all appurtenant appliances under the direction of the Board of Trustees and in conformance with the ordinances of the Town; provided, however, that no unreasonable or impossible restrictions shall be required by the Board of Trustees. Such restrictions considered reasonable may include, but are not limited to, review and approval of all structures for conformance with zoning, planning and historic preservation requirements. Replacement of all curbs, streets, sidewalks and private property shall be performed in conformance with pertinent Town ordinances. Adequate notice of all proposed electric system changes in the Town shall be provided to the Board of Trustees. The Town shall not require Utilities to perform in any manner which is contrary to any law, rule, regulation or operating and maintenance procedure for electric transmission and distribution systems as established by Utilities or any federal or Colorado regulatory authority.~~

~~(Ord. 02-2009)~~

### ~~Sec. 5-33.—System service.~~

~~Utilities agrees to furnish electricity for light, heat and power to all Persons, associations or corporations, either public or private, within the Town, desiring the same, under the rate schedules and tariffs now on file with the appropriate regulatory body as established by state law or as they may be lawfully amended or as is provided in Section 5-34 below.~~

~~(Ord. 02-2009)~~

### ~~Sec. 5-34.—Schedule of rates.~~

~~Utilities, by the acceptance hereof, in consideration of the rights and privileges hereby granted, agrees that it will not at any time during the term hereof establish and endorse any schedule of rates for the Town or its inhabitants which is higher than the schedule of rates effective in the City of Colorado Springs during the same period, and a continued violation of this provision after ten (10) days' written notice thereof given to Utilities by the Town shall, if the Town so elects, terminate all the rights and~~

privileges hereby conferred on Utilities. On the other hand, Utilities shall not at any time during the term hereof be required to sell electricity within the Town for any purpose at a lower rate than is being charged consumers with the City of Colorado Springs for like service, and if a schedule of rates for the Town falls lower than the said rates for consumers within the City of Colorado Springs, shall at any time be lawfully fixed, then Utilities shall have the right and option at its election to surrender all its rights and privileges hereunder and, upon such surrender, the term hereof shall immediately end.

~~(Ord. 02-2009)~~

~~Sec. 5-35. — Franchise fee.~~

Utilities, by the acceptance hereof, in consideration of the rights and privileges hereby granted, agrees that it will pay on or before the 1st of February, in each year of the term hereof, a franchise fee to the Town in a sum equal to the number of electric units sold by Utilities within the Town during the previous calendar year times \$0.00332. This rate shall increase at the same electric base rate percentage as annually approved by the City Council of Colorado Springs.

~~(Ord. 02-2009)~~

~~Sec. 5-36. — Payment of tax.~~

Utilities is a municipal enterprise providing electric utility service within the Town. The franchise fee paid to the Town takes into account payments in lieu of taxes that would be paid by a privately owned utility and is consistent with the payment in lieu of taxes that is paid to the City of Colorado Springs by Utilities. If at any time during the term hereof, the Constitution and laws of the State shall be amended or changed so that the property of Utilities is no longer exempt from taxation and if, pursuant to such amendment and change, any taxes shall be lawfully assessed in any year on the electric property of Utilities located within the Town, or any occupation, license or similar tax shall be imposed upon Utilities on account of its sale or distribution of electricity within the Town, then the amount payable hereunder to the Town shall be the above mentioned franchise fee less any taxes so assessed and paid.

~~(Ord. 02-2009)~~

~~Sec. 5-37. — Replacement of gas lights.~~

Utilities shall replace the nine (9) gas lights surrounding the lake within the Town limits with electric lights in 2010 or as otherwise agreed upon by the parties.

~~(Ord. 02-2009)~~

~~Secs. 5-38 — 5-50. — Reserved.~~

~~ARTICLE III — Gas Franchise~~

~~Sec. 5-51. — Franchise granted.~~

The Town of Green Mountain Falls, Colorado (hereinafter referred to as "Grantor"), hereby grants a nonexclusive franchise to Peoples Natural Gas, a division of UtiliCorp United Inc., a Delaware corporation (hereinafter called "Grantee"), its lessees, successors and assigns. This repeals the franchise previously granted by Ordinance No. 07-1985. Grantee is hereby granted the right, privilege, franchise, permission and authority to construct, maintain, operate and extend in the present and future streets, alleys, avenues, bridges, public rights-of-way and public places as are now within the present or future limits of



said Grantor, a natural gas distribution system for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Grantor further grants Grantee the right, permission and authority to lay, install, maintain and operate over, across and along all of the streets, avenues, alleys, bridges, public rights-of-way and public places of Grantor all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

(Ord. 2000-01)

~~Sec. 5-52. — Term.~~

The rights and privileges granted by this franchise shall remain in effect for a period of fifteen (15) years from the effective date of the ordinance codified herein.

(Ord. 2000-01)

~~Sec. 5-53. — Franchise fees.~~

- (a) ~~In exchange for the franchise granted herein, Grantee shall collect from its residential and commercial customers, but not from the Town, located within the corporate limits of Grantor, and pay to Grantor an amount equal to four percent (4%) of gross receipts derived from the sale, distribution or transportation of natural gas delivered within the present or future limits of Grantor. Gross receipts, as used herein, are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. The amount paid by Grantee shall be in lieu of, and Grantee shall be exempt from, all other occupation, license, excise or right-of-way permit fees or taxes.~~
- (b) ~~Any consideration hereunder shall be reported and paid to Grantor by Grantee on a quarterly basis. Such payment shall be made not more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of the term of this franchise.~~
- (c) ~~Grantee shall list the local fee collected from customers as a separate item on bills for utility service issued to customers. If at any time the Colorado Public Utilities Commission, or other authority having proper jurisdiction, prohibits such recovery, then Grantee will no longer be obligated to collect and pay the fee herein contemplated.~~
- (d) ~~Grantor shall have access to and the right to examine, during normal business hours, those of Grantee's books, receipts, files, records and documents that are necessary to verify the correctness of payments due hereunder. If it is determined that a mistake was made in the payment of any fee required hereunder, such mistake shall be corrected promptly upon discovery, such that any underpayment by Grantee shall be paid within thirty (30) days of the recalculation and any overpayment by Grantee shall be discounted from the next payments due.~~
- (e) ~~Five (5) years from the date of enactment of the ordinance codified herein, and every five (5) years thereafter until the end of the term as defined herein, Grantor shall review the percentage of Grantee's gross receipts payable to Grantor pursuant to this Article. Grantor shall notify Grantee in writing, no later than one hundred eighty (180) days before each five-year anniversary of the effective date, if it desires to amend the percentage of Grantee's gross receipts payable to Grantor.~~

(Ord. 2000-01)

~~Sec. 5-54. — Governing rules and regulations.~~

~~This franchise is granted subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by the laws of the State of Colorado. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided, however, that should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this franchise in accordance with the action taken so as to allow Grantee to be made whole economically. In determining the rights and duties of Grantee, the terms of this franchise shall take precedence over any conflicting terms or requirements falling within the scope of a natural gas franchise contained in any other ordinance enacted by Grantor.~~

~~(Ord. 2000-01)~~

~~Sec. 5-55. — Construction.~~

~~Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good condition as existed immediately prior to excavation. All excavations shall be refilled, construction and maintenance completed and all obstructions shall be removed at the expense of Grantee and to the satisfaction of Grantor. In the event that Grantee shall fail to comply with the provisions of this Section within fifteen (15) days after having been given reasonable notice, Grantor may do such work as may be needed to properly repair said thoroughfare, and the cost thereof shall be repaid to Grantor by Grantee within thirty (30) days.~~

~~(Ord. 2000-01)~~

~~Sec. 5-56. — Maintenance.~~

~~Grantee agrees that, for the term of this grant, it will use its best efforts to maintain facilities and equipment sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate, unilateral actions as it determines are necessary to protect the public health, safety and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Grantee shall keep maps and records showing the location and size of all gas mains laid in said Town. Such maps and records of Grantee shall be subject to inspection at all reasonable times by officials of the Town or duly authorized agents.~~

~~(Ord. 2000-01)~~

~~Sec. 5-57. — Extension of Company facilities.~~

~~Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor. No obligation shall extend to, or be binding upon, Grantee to extend its facilities if Grantee is for any reason unable to obtain and deliver an adequate energy supply.~~

(Ord. 2000-01)

~~Sec. 5-58. — Relocation of Company facilities.~~

~~If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of Grantor, at the cost and expense of Grantee. If Grantor orders or requests Grantee to relocate its facilities or equipment primarily for nonpublic purposes or the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other nonpublic entity and such removal is necessary to prevent interference and not merely for the convenience of Grantor or other right-of-way user, Grantee shall receive reimbursement for the cost of such relocation as a precondition to relocating its facilities or equipment. Grantor shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this Section. Grantor shall also provide a reasonable alternative location for Grantee's facilities.~~

(Ord. 2000-01)

~~Sec. 5-59. — Confidential information.~~

~~Grantor acknowledges that certain information it might request pursuant to this franchise may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to such proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of that information. If Grantor is requested or required by legal or administrative process to disclose any such confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. Grantor shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.~~

(Ord. 2000-01)

~~Sec. 5-60. — Default.~~

~~If Grantee shall be in default in the performance of any of the terms and conditions of this Article and shall continue in default for more than thirty (30) days after receiving notice from the governing body of said Town of such default, the governing body may, by ordinance duly passed and adopted, terminate all rights granted under this Article to Grantee. Said notice of default shall specify the provision or provisions in the performance of which it is claimed Grantee is in default. Said notice shall be in writing and served in the manner provided by the laws of Colorado for the service of original notices in civil actions.~~

(Ord. 2000-01)

~~Sec. 5-61. — Force majeure.~~

~~It shall not be a breach or default under this franchise if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following:~~

- ~~(1) — Physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines.~~
- ~~(2) — Acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars.~~

~~(3) — Governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise, not reasonably within the control of the affected party to prevent or overcome.~~

~~Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.~~

~~(Ord. 2000-01)~~

~~Sec. 5-62. — Hold harmless.~~

~~Grantee, during the term of this franchise, agrees to save harmless Grantor from and against all claims, demands, losses and expenses, also including the court costs and reasonable attorney fees of Grantor, arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, that Grantee need not save harmless Grantor from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.~~

~~(Ord. 2000-01)~~

~~Sec. 5-63. — Severability.~~

~~If any clause, sentence or section of this Article is deemed invalid, the remaining provisions shall not be affected.~~

~~(Ord. 2000-01)~~

~~Sec. 5-64. — Nonwaiver.~~

~~Any waiver of any obligation or default under this franchise shall not be construed as a waiver of any future defaults, whether of like or different character.~~

~~(Ord. 2000-01)~~

~~Sec. 5-65. — Repeal conflicting ordinances.~~

~~All ordinances or parts of ordinances in conflict herewith are hereby repealed.~~

~~(Ord. 2000-01)~~

~~Sec. 5-66. — Effective date and acceptance.~~

~~This ordinance codified herein shall become effective upon its final passage and approval by Grantor in accordance with applicable laws and regulations, and upon acceptance by Grantee by written instrument within sixty (60) days of passage by the governing body and filed with the Town Clerk. If Grantee does not, within sixty (60) days following passage of the ordinance codified herein, express in writing its objections to any terms or provisions contained herein or reject said ordinance in its entirety, Grantee shall be deemed to have accepted this ordinance and all of its terms and conditions.~~

~~(Ord. 2000-01)~~

~~Sec. 5-67. — Notices.~~

~~Any notices required to be given hereunder shall be sent to the following:~~

~~If to Grantee:~~

~~Vice President Customer Operations  
UtiliCorp United Inc.  
20 West 9th Street  
Kansas City, Missouri 64105~~

~~If to Grantor:~~

~~Town Clerk  
7035 Oak Street  
Green Mountain Falls, Colorado 80819~~

~~(Ord. 2000-01)~~

~~Secs. 5-68 — 5-80. — Reserved.~~

~~ARTICLE IV — Telephone Utilities Tax~~

~~Sec. 5-81. — Definitions.~~

~~As used in this Article:~~

- ~~(1) — *Base line count* means the total number of lines for which the incumbent provider provides basic local exchange service within the Town on January 1, 1998.~~
- ~~(2) — *Basic local exchange service* means basic local exchange service or basic service authorized by a certificate of public convenience and necessity, or otherwise, under Title 40, Article 15, C.R.S., as amended or recodified from time to time.~~
- ~~(3) — *Incumbent basic local exchange service provider or incumbent provider* means the company or entity providing basic local exchange service in the Town as of January 1, 1998.~~
- ~~(4) — *Inhabitant* means any individual, corporation, partnership, joint venture, company, firm, association, proprietorship or other entity residing or having a place of business within the Town.~~
- ~~(5) — *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, a *line* means a network access register, or its functional equivalent, provided to a customer at retail.~~
- ~~(6) — *New basic local exchange service provider or new provider* means any company or entity other than the incumbent provider who enters the business of providing basic local exchange service.~~
- ~~(7) — *New provider's initial line count* means the number of lines for which a new provider provides basic local exchange service within the Town thirty (30) days after that new provider's effective date, under Section 5-83.~~
- ~~(8) — *Provider* means a company or entity providing basic local exchange service through use of its own facilities, through resale or through any combination of the two (2).~~

~~(Ord. 98-01 §2)~~

~~Sec. 5-82. — Tax levied; amount.~~

(a) ~~There is levied on and against each provider operating within Green Mountain Falls, also called the Town, a tax on the occupation and business of providing basic local exchange service at retail to inhabitants of the Town.~~

(b) ~~The amount and payment rates of tax levied shall be as follows:~~

- (1) ~~The monthly tax rate to be paid by all providers shall be calculated by dividing the current annual amount of business and occupation tax paid by the incumbent provider, by the total number of lines for which a charge is made to all inhabitants on January 2, 1998 by all providers, the result of which shall be divided by twelve (12). Such formula can be represented as follows:~~

~~$$\frac{\text{The incumbent's current liability}}{\text{Total lines of all current providers}} \div 12 = \text{Per monthly line rate}$$~~

~~-~~

- (2) ~~The tax levied against each provider shall be calculated each August, shall be effective on the following January 1 and shall be payable on a quarterly basis, specifically, on March 31, June 30, September 30 and December 31 of each year.~~

- (3) ~~Each new provider that first becomes subject to this Article during any calendar year shall calculate its tax for that calendar year, as stated in paragraph (1) above, using as the number of provider lines, the number in the new provider's initial line count under Section 5-84. Each such new provider shall prorate the tax from and including the month of the effective date, under Section 5-83, through the end of that calendar year. Each such new provider that first becomes subject to this Article within the first ten (10) months of a tax year shall pay that prorated tax in equal quarterly payments, beginning the month of its statement of new provider's initial line count under Section 5-84 of lines, and ending December 31 of that tax year. Each such new provider that first becomes subject to this Article during the last two (2) months of the tax year shall pay its total prorated tax within sixty (60) days of the effective date. For each such new provider, the tax for the following year shall be computed as stated in paragraph (2) above, using, as the number of provider lines, the number in either the new provider's initial line count, or its June 30 statement of lines for the preceding year (if any), under Section 5-84, whichever statement comes later.~~

~~(Ord. 16-1984 §1; Ord. 98-01 §2)~~

~~Sec. 5-83. — Effective date; schedule of payments.~~

~~For each provider, the tax levied by this Article shall commence on January 1, 1998, or on the date the provider first provides basic local exchange service with the Town, whichever is later. Except as this Article may otherwise provide, the tax shall be due and payable in quarterly payments.~~

~~(Ord. 16-1984 §2; Ord. 98-01 §2)~~

~~Sec. 5-84. — Initial and annual statements of company lines.~~

~~An incumbent provider shall, on January 2, 1998, determine the total number of lines for which it then provides basic local exchange service within the Town (the base line count), and shall, by March 15, 1998, file with the Town Clerk a statement showing its determined total number of lines. On June 30 of each calendar year, each provider then subject to this Article shall determine the total number of lines for which it then provides basic local exchange service within the Town. By July 30 of the same calendar year, each such provider shall file with the Town Clerk a statement showing its determined total number of lines. In addition, a new provider that first becomes subject to this Article during any calendar year~~

shall, thirty (30) days after that new provider's effective date under Section 5-83, determine the number of lines for which it provides basic local exchange service within the Town (new provider's initial line count), and shall file its statement of that number within sixty (60) days after the effective date. All statements shall be in such form as the Town Clerk may require, including oaths, verifications or acknowledgments.

~~(Ord. 16-1984 §3; Ord. 98-01 §2)~~

~~Sec. 5-85. — Failure to pay; penalty; Town action to collect.~~

~~If any provider subject to this Article fails to pay the taxes as provided in Section 5-82, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, is a debt due and owing from such provider 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 the debt.~~

~~(Ord. 16-1984 §§4, 5; Ord. 98-01 §2)~~

~~Sec. 5-86. — Inspection of records.~~

~~To enforce this Article, the Town and its officers, agents or representatives shall have the right, at all reasonable hours and times, to examine and copy the books and records of every provider subject to this Article. They shall use these books, records and copies only to enforce this Article. Except under a court order, or in connection with enforcing this Article, they shall not divulge these books, records or copies to any other person.~~

~~(Ord. 16-1984 §6; Ord. 98-01 §2)~~

~~Sec. 5-87. — Tax not on interstate commerce; not a franchise.~~

~~The tax provided in this Article is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. None of the terms of this Article mean that the Town grants any provider a franchise.~~

~~(Ord. 16-1984 §7; Ord. 98-01 §2)~~

~~Sec. 5-88. — Tax in lieu of certain other consideration.~~

~~The tax levied in this Article is in lieu of all other occupation taxes on any provider subject to this Article. It is in addition to any otherwise applicable ad valorem taxes and other taxes and fees. It is in lieu of any free service furnished the Town by any provider.~~

~~(Ord. 16-1984 §8; Ord. 98-01 §2)~~

~~Sec. 5-89. — Violation of Section 5-84; penalty.~~

~~Upon conviction, the Municipal Court shall punish any officer, agent or manager of a provider subject to this Article who fails, neglects or refuses to make or file the annual statement of accounts provided in Section 5-84 by a fine of not more than one thousand dollars (\$1,000.00). Each day after the statement becomes delinquent during which the officer, agent or manager so fails, neglects or refuses to make and file such statement is a separate and distinct offense.~~

~~(Ord. 98-01 §2)~~

~~Sec. 5-90. -- Offenses and liabilities to continue.~~

~~All offenses committed and all tax liabilities incurred before amendment of this Article, under prior versions of the telephone utility tax, shall be and remain unconditionally due and payable, shall constitute a debt to the Town and shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect.~~

~~(Ord. 16-1984 §9; Ord. 98-01 §II)~~

~~Secs. 5-91 -- 5-100. -- Reserved.~~

#### ~~ARTICLE V -- Emergency Telephone Service Charge~~

~~Sec. 5-101. -- Emergency telephone service authority.~~

~~The Town has the opportunity of being a participant in the formation of a separate legal entity known as the *Emergency Telephone Service Authority* which shall be the governing body responsible for administering the enhanced 911 operation. The Authority shall have the power to contract for the installation and operation of an emergency telephone service in all areas authorized by the intergovernmental agreement.~~

~~(Ord. 6-1989 §1)~~

~~Sec. 5-102. -- Fees.~~

~~The Town agrees to the basis for contribution and charges to be imposed on service users. The charges imposed on the service user shall be in an amount not to exceed the lesser of two percent (2%) of the tariff rate or fifty cents (\$.50) per month for those portions of the service area for which emergency telephone services are provided. The funds so collected shall be spent solely to pay for the equipment costs, installation costs, costs directly related to the continued operation of an emergency telephone service and for the monthly recurring charges billed by the service supplier for said service. All fees will be collected and distributed by the Emergency Telephone Service Authority Board.~~

~~(Ord. 6-1989 §2)~~

~~Secs. 5-103 -- 5-120. -- Reserved. (a) Except as otherwise provided by the State law, all powers concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Board of Trustees.~~

~~(b) Grants of public utility franchises and all extensions and amendments shall be granted only by ordinance. The granting of franchises by the Town shall be limited only by the provisions of the Constitution and statutes which may be applicable to the Town as now in effect or as hereafter amended and shall be submitted to the vote of the people only if required by the State Constitution.~~

#### Section 1-2. - Existing Franchises.



All franchise ordinances of the Town in effect at the time that this Code is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

**Section 1-3. - Term, Compensation, and Restriction.**

No franchise, lease or right to use the streets or the public places or property of the Town shall be granted for a term which exceeds twenty (20) years, except as provided by ordinance hereafter enacted. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid as provided and be subject to mutual periodic renegotiation, and failure to pay shall result in forfeiture of the franchise at the option of the Board of Trustees. This provision shall not except the grantee from any lawful taxation upon the property, nor from any license, charges or other impositions levied by the Board of Trustees.

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## **CHAPTER 4 – Franchises**

### **ARTICLE I – Franchises**

#### **Sec. 1-1. – Authority to Franchise.**

(a) Except as otherwise provided by the State law, all powers concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Board of Trustees.

(b) Grants of public utility franchises and all extensions and amendments shall be granted only by ordinance. The granting of franchises by the Town shall be limited only by the provisions of the Constitution and statutes which may be applicable to the Town as now in effect or as hereafter amended and shall be submitted to the vote of the people only if required by the State Constitution.

#### **Section 1-2. - Existing Franchises.**

All franchise ordinances of the Town in effect at the time that this Code is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

#### **Section 1-3. - Term, Compensation, and Restriction.**

No franchise, lease or right to use the streets or the public places or property of the Town shall be granted for a term which exceeds twenty (20) years, except as provided by ordinance hereafter enacted. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid as provided and be subject to mutual periodic renegotiation, and failure to pay shall result in forfeiture of the franchise at the option of the Board of Trustees. This provision shall not except the grantee from any lawful taxation upon the property, nor from any license, charges or other impositions levied by the Board of Trustees.

## CHAPTER 65 - Business Licenses and Regulations

### ARTICLE I - Licensing Generally

#### Sec. 65-1. - Applications.

Applications for all licenses and permits required by any provision of this Code ~~or any code adopted herein~~ shall be made in writing to the Town Clerk in the absence of a specific provision to the contrary. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid, and each application shall contain such additional information as may be needed for the proper guidance of the Town officials in the issuing of the permit or license applied for. ~~(Prior code 7-1-1)~~

#### Sec. 65-2. - Persons subject to license.

Whenever in this Code, ~~or in any code adopted herein~~, a license is required for the maintenance, operation or conduct of any business or establishment, for doing business or for engaging in any activity or occupation, any person or corporation shall be subject to the requirement if, by ~~himself or herself~~ their self or through an agent, employee or partner, the applicant holds ~~himself or herself~~ themselves forth as being engaged in the business or occupation, solicits patronage therefor, actively or passively or performs or attempts to perform any part of such business or occupation in the Town. ~~(Prior code 7-1-2)~~

#### Sec. 65-3. - Forms.

Forms for all licenses and permits and applications therefor shall be prepared and kept on file by the Town Clerk. ~~(Prior code 7-1-3)~~

#### Sec. 65-4. - Signatures.

Each license or permit issued shall bear the signature of the Town Clerk, in the absence of any specific provision to the contrary. Such license or permit shall be in substantially the following form:

No. \_\_\_\_\_ State of Colorado

By Authority of  
The Town of  
GREEN MOUNTAIN FALLS

LICENSE

PERMISSION IS HEREBY GIVEN TO \_\_\_\_\_ TO MAINTAIN AND  
CARRY ON THE FOLLOWING DESCRIBED BUSINESS OF \_\_\_\_\_

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FOR THE TERM OF \_\_\_\_ MONTHS, BEING FROM THE \_\_\_\_ DAY OF  
\_\_\_\_ A.D., ~~4920~~, TO THE \_\_\_\_ DAY OF \_\_\_\_ A.D., ~~4920~~, BOTH  
DAYS INCLUSIVE.

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IN TESTIMONY WHEREOF THE SIGNATURE OF THE TOWN CLERK IS  
HEREUNTO AFFIXED THIS \_\_\_\_ DAY OF \_\_\_\_ A.D., ~~4920~~.

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\_\_\_\_ TOWN CLERK

(Prior code 7-1-4; Ord. 92-04 §1)

TOWN CLERK

#### Sec. ~~65~~-5. - Investigations.

Upon the receipt of an application for a license or permit where any provision of this Code  
~~or of any code adopted herein~~, necessitates an inspection or investigation before the issuance of  
such permit or license, the Town Clerk shall refer such applications to the proper officer, board  
or commission for making such investigation within forty-eight (48) hours of the time of such  
receipt. The officer, board or commission charged with the duty of making the investigation or  
inspection shall make a report thereon, favorable or otherwise, within ten (10) days after  
receiving the application or a copy thereof. The County Health Commissioner~~Inspector~~ shall make  
or cause to be made an inspection in regard to such licenses in connection with the care and  
handling of food, the prevention of nuisances and the spread of disease, for the protection of  
health; the Building Inspector shall make or cause to be made any such inspections relative to the  
construction of buildings or other structures. All other investigations, except where otherwise  
specifically provided, shall be made by the Town Marshal or by another officer designated by the  
Town ~~Administrator~~. (Prior code 7-1-5)

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Manager.

#### Sec. ~~5-6~~-6. - Fees.

~~In the absence of any specific provision to the contrary, all~~ All fees and charges for licenses or  
permits shall be paid in advance at the time application therefor is made to the Town Clerk.  
Except as otherwise provided, all license fees shall become a part of the General Fund. (Prior  
code 7-1-6)

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#### Sec. ~~65~~-7. - Termination of licenses; renewal.

In the absence of any specific provision to the contrary, all annual licenses shall terminate  
on the last day of the Town's fiscal year. Unless specifically stated otherwise, all annual licenses  
may be renewed upon payment of the annual license fee to the Town Clerk without further  
examination or investigation. The Board of Trustees reserves the right to deny any license

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renewal when it is deemed by a majority vote of the Board of Trustees that said license would endanger the health, safety and welfare of the Town. ~~(Prior code 7-1-7)~~

#### **Sec. 65-8. - Building and premises.**

No license shall be issued for the conduct of any business and no permit shall be issued for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of this Code ~~and any code adopted hereby.~~ No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of **Chapter 16** of this Code. ~~(Prior code 7-1-8)~~

#### **Sec. 65-9. - Change of location.**

The location of any licensed business or occupation or of any permitted act may be changed; provided that ten (10) days' notice thereof is given to the Town Clerk in the absence of any provision to the contrary; further provided that the building requirements of this Code ~~and any code adopted hereby~~ are complied with. ~~(Prior code 7-1-9)~~

#### **Sec. 65-10. - Inspections.**

(a) Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by this Code or ~~by any code adopted herein or~~ are reasonably necessary to secure compliance with any provision of this Code ~~or any code adopted herein~~, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to be inspected to admit thereto for the purpose of making the inspection any officer or employee of the Town who is authorized or directed to make such inspection at any reasonable time that admission is requested, and it shall be unlawful for such person to fail or refuse to admit such officer or employee for such purpose.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any provision of this Code or ~~any code adopted herein or~~ to detect violations thereof, it shall be the duty of the licensee whose business is governed by such provision to give to any authorized officer or employee of the Town requesting the same sufficient samples of such material or commodity for such analysis upon request, and it shall be unlawful for such licensee to fail or refuse to give such samples to such officer or employee.

(c) Conviction of a violation of any provision of this Article shall automatically forfeit and revoke any license issued under this Chapter; provided that there shall be no violation of this Article unless written demand is made upon the licensee or person in charge of the premises, in the name of the Town, stating that such inspection or sample is desired at the time it is sought to make the inspection of or obtain the sample. ~~(Prior code 7-1-10)~~

#### **Sec. 65-11. - Revocation.**

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The Board of Trustees may, upon seven (7) days' written notice to a licensee stating the contemplated action and in general the grounds therefor and after a reasonable opportunity to be heard, revoke any license issued by the Town if it finds that:

- (1) The licensee has failed to pay the annual license fee;
- (2) The licensee has failed to file any reports or furnish any other information that may be required by the provisions relating to the specific license; ~~or~~
- (3) The licensee has violated any of the terms of the provisions pertaining to ~~his or her~~ their license or any regulation or order lawfully made relating thereto; ~~or existing~~ existing at the time of the application for such license, would have warranted the refusal of the issuance of such license. ~~(Prior code 7-1-11)~~

; or

- (4) The licensee is in violation of any part of this Code.

#### Sec. 65-12. - Return of fees.

Upon refusal of any license, the fee therefor paid in advance shall be returned to the applicant. In the event that any license is revoked, all monies paid therefor shall be and remain the monies of the Town and no refund shall be made to any licensee. ~~(Prior code 7-1-12)~~

#### Sec. 65-13. - Posting license.

It shall be the duty of any person conducting a licensed business in the Town to keep ~~his or her~~ their license posted in a prominent place on the premises used for such business at all times.

Sec. ~~(Prior code 7-1-13)~~

#### 5-14. - Violation.

It is unlawful for any person to violate any part of this Article. A violation of this Article is punishable by a fine not exceeding four hundred and ninety-nine dollars (\$499.00). Each day of violation shall constitute a separate offense. In addition to any other available penalties, the Town may enjoin a person from engaging in business in the Town without a license required by this Article.

Secs. 6-14—65-15—5-30. - Reserved.

### ARTICLE II - Business Licenses

#### Sec. 65-31. - Definitions.

~~Whenever in~~ For purposes of this Article, the words hereinafter defined or construed in this Section are used, they following terms shall, unless the context requires other uses, be deemed to have the following meanings:

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(1) *Business* means any business, trade, occupation, profession, avocation or calling of any kind.

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~~(2) *Employees* means persons working for remuneration under the control and direction of an employer.~~

~~(3)(2) *Engaged in business* means to carry on or take a part in the operation of a business as owner, operator or agent within the geographical limits of the Town. (Prior code 3-2-1)~~

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### ~~Sec. 65-32. -Distribution of tax.- License required,~~

~~The Board of Trustees hereby finds, determines and declares that the relationship of the businesses and occupations being conducted in the Town to the municipal welfare and the expenditures of the Town requires a proper, just and equitable distribution of the tax burdens within the Town. After considering all matters in relation thereto, the tax imposed on each business herein defined is reasonable, proper, uniform, nondiscriminatory and necessary for a just and proper distribution of tax burdens within the Town. (Prior code 3-2-2)~~

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~~(a) Every person desiring to engage in business within the Town shall first obtain a business license from the Town except as otherwise provided herein.~~

~~(b) The license herein required.~~ Sec. 6-33. -Amount of tax.

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~~(a) There is hereby levied and assessed for the period of one (1) year, and for each calendar year thereafter, an occupation tax upon every business except as otherwise provided herein for a sum established by resolution of the Board of Trustees.~~

~~(b) Every person engaged in business within the Town shall be liable for this occupation tax except as otherwise provided herein.~~

~~(c) The tax herein provided shall not apply to the operation of any business exempt by federal or state law.~~

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~~(d) The tax herein provided is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce.~~

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~~(e) The tax herein provided shall not apply to newsboys. (Prior code 3-2-3; Ord. 10-1987 §II; Ord. 1999-02)~~

~~(c) Nonprofit corporations are~~ Sec. 6-34. -Exemption from tax.

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~~An employee is declared to be exempt from the tax herein provided. (Prior code 3-2-4)~~

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~~license requirements and fees set forth in this Article subject to approval by~~ Sec. 6-35. -Payment of tax.

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~~(a) Such tax shall be due and payable to the Town Treasurer on January 2 of each year. The tax, if not paid as herein provided, shall become delinquent on March 1 of the same year. For all persons engaged in business for a period of less than a year, the tax shall be due and payable prior to the time the person engages in business.~~

~~(b) Upon receipt of the tax, it shall be the duty of the Town Clerk following proof of current nonprofit status.~~

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### ~~Sec. 5-33. - Business license fee.~~

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~~The fee required to execute obtain a business license under this Article shall be set by resolution of the Board of Trustees and included on the Town's fee schedule.~~

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#### ~~Sec. deliver~~5-34. – Term of License.

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~~Licenses shall expire on December 31st of each year. To renew a license, Licensees shall apply to the operator of the business paying the tax a revenue receipt, showing Town on forms provided by the Town no later than November 1st of each year.~~

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#### ~~Sec. name of the~~5-35. – Separate license for each location.

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~~Any person paying the tax, the date of payment, the operating, conducting or carrying on any business paying the tax, the period for which said tax is paid and the place at which the person conducts his or her within the City must obtain a separate license for each location of such business. (Prior code 3-2-5)~~

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~~Sec. and a separate license for each business operated at the same location under a separate Federal Employer I.D. number or Social Security number.~~

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#### ~~Sec. 6-36. Classification.~~

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~~Every person doing business in more than one (1) store, stand or other place of business shall pay a separate tax for each place of business, unless such places of business are contiguous to each other, communicate directly with and open to each other and are operated as a unit. The business may be transferred from one (1) location to another without payment of additional tax. (Prior code 3-2-6)~~

#### ~~5-36. Sec. 6-37. Unlawful procedure.~~

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~~It shall be unlawful for any person or his or her their agent to engage in or carry on a business in the Town for which an occupational tax a business license is required without first having paid the tax required business licensing fee and obtained a revenue receipt as obtaining the license required herein provided. For the purpose of this Article, the opening of a place of business or offering to sell followed by a single sale or the doing of any act or thing in the furtherance of the business shall be construed to be engaging in carrying on such business. (Prior code 3-2-7)~~

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#### ~~Sec. 6-38. Legal right of Town.~~

~~The Town shall have the right to recover all sums due by the terms of this Article by judgment and execution thereon in a civil action in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided herein for the enforcement of this Article. (Prior code 3-2-8)~~

#### ~~Sec. 6-39. Violations.~~

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~~Failure to comply with the terms of this Article by payment of taxes and to otherwise comply with the terms of this Article shall constitute a violation of this Article. (Prior code 3-2-9)~~

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#### ~~Secs. 6-40 – 6-53 – 5-50. - Reserved.~~

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### ~~ARTICLE III - Alcoholic Beverages~~

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**Sec. 65-51. - State codes- Licensing authority.**

The Board of Trustees is hereby designated the Local Licensing Authority ("Authority") for purposes of exercising the duties and powers provided in the Colorado Liquor Code (C.R.S. § 44-3-101, *et seq.*), the Colorado Beer Code (C.R.S. § 44-4-103, *et seq.*), and issuance of special event liquor permits pursuant to C.R.S. § 44-5-101, *et seq.*

**Sec. 5-52. - General provisions.**

The provisions of the Colorado Liquor Code (C.R.S. § 44-3-101, *et seq.*), the Colorado Beer Code (C.R.S. § 44-4-103, *et seq.*), and issuance of special event liquor permits pursuant to C.R.S. § 44-5-101, *et seq.*, together with rules and regulations of the Colorado Department of Revenue, Liquor Enforcement Division, which are applicable to local liquor license authorities and local liquor license applicants, are hereby adopted as part of this Article and are incorporated herein by reference, except to the extent of any inconsistency with the other provisions of this Article. Nothing herein shall be construed to alter or amend powers to condition, suspend or revoke a license.

**Sec.** In all cases, State Liquor and Beer Code provisions rule. (Ord. 3-1989 §1)

**5-53. ~~Sec. 6-52.~~ - License required.**

It is unlawful for any person to engage in the business of selling alcoholic beverages within the Town without first securing an annual liquor license from the Town and from the State. (~~Ord. 3-1989 §2~~)

A violation of this Article is punishable by a fine not exceeding four hundred and ninety-nine dollars (\$499.00). Each day of violation shall constitute a separate offense.

**Sec. 6-535-54. - License fees.**

In addition to those fees required by the State, fees payable to the Town shall be as established by resolution of the Board of Trustees, as nonrefundable application fees. (~~Ord. 3-1989 §3; Ord. 92-04 §1~~)

**Sec. 6-545-55. - Restaurant license required.**

It is unlawful for any person to engage in the business of selling alcoholic beverages within the Town without first securing an annual restaurant license as provided in ~~Article V of this Chapter~~, unless exempt under the provisions ~~of said Article~~. (~~Ord. 3-1989 §4~~)  
thereof.

**Sec. 6-555-56. - Fine in lieu of suspension.**

If so requested by a ~~retail~~ licensee convicted of a violation of the State Liquor or Beer Code and sentenced to a license suspension for a period of fourteen (14) days or less, the Town may agree to accept payment of a fine to be determined by the Board of Trustees in lieu of said suspension. Said fines collected by the Town are to be credited to the General Fund of the Town. (~~Ord. 3-1989 §5~~)

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~~Secs. 6-56—6-100~~~~5-57—5-70~~, - Reserved.

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#### ARTICLE IV - Mobile Food Vendors and Peddlers<sup>(4)</sup>

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Footnotes:

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**Editor's note**— Ord. No. 2018-02, § 1, adopted June 5, 2018, repealed the former Art. IV, §§ 6-101—6-109, and enacted a new Art. IV as set out herein. The former Art. IV pertained to peddlers and solicitors and derived from Prior code 7-2-1—7-2-7; Ord. 92-04 § 1.

#### ~~Sec. 6-101~~~~5-71~~, - Mobile food vendors and peddlers licensed.

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It shall be unlawful for any mobile food vendor or peddler as defined herein to engage in such business within the corporate limits of the Town without first obtaining a license therefor in compliance with this Code.

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~~(Ord. No. 2018-02, § 1, 6-5-2018)~~

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#### ~~Sec. 6-102~~~~5-72~~, - Definitions.

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~~Whenever used in~~For purposes of this Article, the words hereinafter defined~~following terms~~ shall, unless the context requires other uses, be deemed to have the following meanings:

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(1) *Mobile food vendor* means a retail food establishment, designed and equipped to prepare or serve food for immediate consumption, which is readily movable, typically as a motorized or towed vehicle. The term mobile food vendor includes food trucks serving prepared meals, but does not include food delivery vehicles delivering food supplies to restaurants, hotels, businesses, or residences (such as grocery delivery vehicles, pizza delivery, or restaurant food and supply delivery).

(2) *Peddler* means any person, whether a resident of the Town or not, who sells and delivers or offers for sale to consumers any goods, wares, merchandise, fruits, vegetables or country produce, traveling from place to place, from house to house or from street to street, who shall sell or offer for sale and delivery any goods or other such articles while traveling on foot, by vehicle or any other type of conveyance, regardless of whether the items are for immediate or future delivery, or whether payment shall be immediate or in the future. The term peddler includes door-to-door sales people, but does not include individuals not engaging in commercial activity.

~~(Ord. No. 2018-02, § 1, 6-5-2018)~~

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#### ~~Sec. 6-103~~~~5-73~~, - Application for a license.

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(a) — Applicants for a peddler's license shall file with the Town Clerk at least five (5) days prior to the date upon which the applicant desires to begin ~~his or her~~their business a sworn application in writing on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) — Name and description of the applicant;
- (2) — The permanent home address and full local address of the applicant;
- (3) — A brief description of the nature of the business and goods shown for sale or for future delivery;
- (4) — If employed, the name, address and phone number of the employer, together with credentials establishing the exact relationship between the employer and employee;
- (5) — The length of time for which the right to do business is desired; and
- (6) — Two (2) identical photographs of the applicant which reasonably identify the applicant; such photographs to measure two (2) inches by two (2) inches.

(b) Applicants for a mobile food vendor's license shall file with the Town Clerk at least five (5) days prior to the date upon which the applicant desires to begin operation in the Town a sworn application in writing on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the mobile food vendor;
- (2) The local address for the mobile food vendor applicant;
- (3) The length of time for which the right to do business is desired;
- (4) Proposed location and hours of operation for the mobile food vendor;
- (5) Proof of permission to operate on the proposed site, or if the applicant seeks to operate on Town property a concurrent application for permission pursuant to **Section §-405. XXXX** of this Code;
- (6) A proposed refuse control plan, including a wastewater disposal plan; and
- (7) Proof of compliance with all applicable state regulations and health department licensing.

(Ord. No. 2018-02, § 1, 6-5-2018)

**Sec. ~~6-1045-74~~. - Investigation and issuance of license.**

(a) For peddler applications, the following procedure shall be followed:

- (1) Upon receipt of such application, an investigation shall be conducted at the direction of the Town Clerk to determine the applicant's business and whether such application is truly for a legitimate business purpose and whether, considering all circumstances, the granting of the license will not threaten the health, safety and welfare of the Town.

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(2) If, as a result of such investigation, it is discovered that the applicant is not intending to use the license for a legitimate business purpose or the granting of the license will threaten the health, safety and welfare of the Town, then the Town Clerk shall notify the applicant of the disapproval of such application and that no license will be issued thereunder, giving the reasons therefor.

(3) If, as a result of such investigation, the application is found to be satisfactory, the Town Clerk shall endorse the same on the application and, upon receipt of the necessary fees as set forth hereafter, shall execute and deliver to the applicant a license to carry on such business within the corporate limits of the Town for a period, not exceeding thirty (30) days, except as hereinafter set forth.

(4) The license so issued to a successful applicant shall contain the signature and seal of the issuing officer, the type of license issued, the kind of goods to be sold thereunder, the date of issuance, the expiration date thereof and a two (2) inch by two (2) inch photograph of the applicant.

(b) For mobile vending applications, the following procedure shall be followed:

(1) The Town Clerk shall investigate and determine whether the requirements for mobile food vendors set forth in this Article have been met and whether issuance of the license will jeopardize the health, safety and welfare of the Town. In making such a determination, the Town Clerk shall consider the following criteria:

1. Information contained in the application or supplemental information obtained from the applicant is found to be false in any material detail;
2. The applicant has failed to complete the application after having been notified of any additional information or documents required;
3. The location, size, or nature of the mobile food vending will create undue vehicular or pedestrian traffic congestion;
4. The location, size, or nature of the mobile food vending is incompatible with the neighborhood due to noise, hours, odors, or other impacts;
5. The applicant has failed to pay costs, fees or deposits for any previous special event or demonstration permit; and
6. The applicant has failed to abide by the terms or conditions of any previous special event or demonstration permit.

(2) If, as a result of such investigation, the application is found to be satisfactory, the Town Clerk shall endorse the same on the application and, upon receipt of the necessary fees as set forth hereafter, shall execute and deliver to the applicant a license to operate a mobile vending operation within the corporate limits of the Town for a period of time, not exceeding one (1) year, subject to annual renewal.

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**Sec. ~~6-105~~5-75. - Mobile food vendors operating on Town property.**

(a) If a mobile food vendor desires to operate on Town property, the application shall be submitted to the Board of Trustees for consideration. In determining whether to grant the requested license, the Board, at its next available meeting, shall consider the following criteria in addition to the criteria set forth in **Section 6-404.572(b)(1):**

1. Whether the mobile food vending operation can operate on Town property without interfering with other uses of such property.
2. Whether mobile food vending is compatible with the nature and purpose of the subject Town property.

(b) The Board of Trustees may deny, approve, or approve with conditions that are necessary to mitigate the negative impacts of the mobile food vending operation.

(c) No mobile food vendor may operate on property owned or controlled by the Town for more than three hundred sixty-five (365) days in any calendar year.

(Ord. No. 2018-02, § 1, 6-5-2018)

**Sec. ~~6-106~~5-76. - License fee.**

The license fee, which shall be charged in advance by the Town Clerk, shall be established by resolution of the Board of Trustees.

(Ord. No. 2018-02, § 1, 6-5-2018)

**Sec. ~~6-107~~5-77. - Suspension/revocation of license.**

(a) Licenses issued hereunder may be suspended or revoked by the Board of Trustees, after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for the license;
- (2) Any violation of this Code;
- (3) For peddlers, fraud, misrepresentation or false statement made while carrying on ~~his or her~~their business or conviction of any crime or misdemeanor involving moral turpitude; or
- (4) Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a threat to the health, safety or general welfare of the public.

(b) Notice of the hearing for suspension or revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at ~~his or her~~their local address as set forth in the application at least five (5) days prior to the date set for the hearing.

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(c) Whether to suspend or revoke a license shall be determined by the Board of Trustees depending on the nature and severity of the violation, whether the licensee has had previous violations, and other similar factors.

~~(Ord. No. 2018-02, § 1, 6-5-2018)~~

**~~Sec. 6-1085-78, - Appeal.~~**

Any person aggrieved by the action of the Police or the Town Clerk in the denial, suspension, or revocation of the same shall have the right to appeal to the Board of Trustees. Such appeal shall be filed within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, by means of a written statement setting forth fully the grounds for the appeal. The Board of Trustees shall set a time and a place for the hearing and shall give notice to the appellant in the same manner as provided in ~~Section 6-407(b), 6-77(b) of this Code.~~ The decision of the Board of Trustees shall be final and conclusive, except as provided by the laws of the State.

~~(Ord. No. 2018-02, § 1, 6-5-2018)~~

**~~Sec. 6-1095-79, - Expiration of license.~~**

All licenses issued under the provisions of this Article shall expire on the dates set forth thereon.

~~(Ord. No. 2018-02, § 1, 6-5-2018)~~

**~~Secs. 6-110-6-1205-80-5-90, - Reserved.~~**

**~~ARTICLE V - Restaurants.~~**

**~~Sec. 6-1245-91, - Definitions.~~**

For the purposes of this Article, the following words ~~set out in this Section~~ shall have the following meanings:

~~(1)~~ *Nonperishable food or drink* means any food or drink which, when stored under normal conditions without refrigeration, will not support the rapid and progressive growth of microorganisms which cause food infections or food intoxication.

~~(2)~~ *Person* means a natural person, partnership, association, company, corporation or organization or manager, agent, servant, officer or employee of any of them.

~~(3)~~ *Restaurant business* means any place which is kept or maintained for the purpose of preparing or serving food or drink, except that restaurant business does not include:

- a. Homes containing what is commonly known as the family unit, including guests.

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b.— Automated food merchandising enterprises which supply only bottled, canned, cartoned or prepackaged nonperishable food or drink and those operations dispensing only chewing gum, salted nuts, nuts in their natural protective covering or packaged candies;

c.— Grocery stores and similar establishments where food is not prepared or sold routinely for immediate consumption; or

d.— Food or beverage manufacturing, processing or packaging plants which are not categorized as restaurant businesses, but are subject to regulatory controls under other local, state or federal laws or regulation. (Ord. 4-1989 §4)

#### **Sec. 6-1225-92. - License required; fee.**

It is unlawful for any person to engage in ~~the~~any restaurant business without first securing an annual restaurant license and paying a license fee as established by resolution of the Board of Trustees. This fee is payable at the time of the liquor license approval ~~and~~or issuance of a business license. (Ord. 4-1989 §2; Ord. 92-04 §1)

A violation of this Article is punishable by a fine not exceeding four hundred and ninety-nine dollars (\$499.00). Each day of violation shall constitute a separate offense.

#### **Sec. 6-1235-93. - License issuance.**

All applicants must comply with the business ~~license~~licensing requirements of the Town in addition to the provisions of this Article. (Ord. 4-1989 §3)

#### **Sec. 6-1245-94. - Inspections.**

All applications for a restaurant license or renewal shall be accompanied by a current inspection report from the County Health Department indicating approval or disapproval by the County Health Inspector. (Ord. 4-1989 §4)

Secs. 6-125—6-1405-95—5-110. - Reserved.

### **ARTICLE VI —~~Medical—~~ Regulated Marijuana Business Prohibition**

#### **Sec. 6-1415-111. - Definitions.**

The following words, terms and phrases, when used in For purposes of this Article, the following terms shall have the following meanings unless the context clearly indicates otherwise:

Colorado Marijuana Code means Chapter 10 of Title 44, Colorado Revised Statutes, as may be amended from time to time.

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Marijuana means all parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, but excluding industrial hemp, 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.

Medical marijuana means marijuana that is grown and sold for a purpose authorized by section 14 of article XVIII of the Colorado Constitution.

Medical marijuana ~~center, business~~ means any entity requiring a license pursuant to the Colorado Marijuana Code, including without limitation a ~~medical marijuana-infused~~ store, a medical marijuana cultivation facility, a medical marijuana ~~products manufacturer and optional premises cultivation operation~~ shall have the same meanings as set forth in the Colorado-, a medical marijuana testing facility, a marijuana research and development licensee, a medical marijuana business operator, or a medical marijuana transporter.

Medical Marijuana Code, Title 12, Article 43.3, C.R.S. ~~marijuana product~~ means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

*Patient and primary caregiver shall have the same meanings as set forth in Article XVIII, Section 14(1) of the Colorado Constitution. (Ord. 02-2011 §1)*

Regulated marijuana means medical marijuana, medical marijuana products, retail marijuana, and retail marijuana products, and includes without limitation any marijuana concentrate.

Regulated marijuana business means any entity requiring a license pursuant to the Colorado Marijuana Code to engage in the cultivation, consumption, or sale of regulated marijuana, including without limitation any retail marijuana business or medical marijuana business.

Retail marijuana means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana business.

Retail marijuana business means any entity requiring a license pursuant to the Colorado Marijuana Code, including without limitation a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, a marijuana hospitality business, a retail marijuana hospitality and sales business, a retail marijuana testing facility, a retail marijuana business operator, or a retail marijuana transporter.

Retail marijuana product means a product infused with retail marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

Sec. 6-1425-112, - Findings.

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(a) ~~— The Colorado Medical Marijuana Code, Section 12-43.3-101, et seq., C.R.S., clarifies state law regarding the scope and extent of Article XVIII, Section 14 and Article XVIII, Section 16 of the Colorado Constitution.~~

(b) ~~— This Article is necessary to protect and is enacted in furtherance of the public health, safety and welfare of the Town.~~

(c) This Article is intended to apply and shall apply to all property, businesses and business enterprises operating within the Town, whether stationary, mobile or virtual. ~~(Ord. 02-2011 §1)~~

#### **Sec. 5-113. - Purpose.**

~~The purpose of this Article is to promote the general public welfare and safety throughout the Town of Green Mountain Falls, Colorado by prohibiting the operation of regulated marijuana businesses to protect the health, safety and welfare of the citizens of the Town of Green Mountain Falls.~~

#### **Sec. 6-143. - Uses****5-114. - Regulated marijuana businesses prohibited.**

~~It is unlawful for any person to establish, operate, cause to be operated or permit to be operated a regulated marijuana business in the Town. The operation, ownership, establishment or conduct of a regulated marijuana business is unlawful and prohibited within the Town of Green Mountain Falls, Colorado.~~

#### **Sec. 5-115. - Patients and primary caregivers.**

~~Nothing in this Article shall be construed to prohibit, regulate or otherwise impair the protections of the use of medical marijuana by patients as provided in Article XVIII, Section 14 of the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and rules promulgated thereunder.~~

~~Sec. medical-marijuana-center, an optional premises cultivation operation or a medical-marijuana-infused products manufacturer facility in the Town. (Ord. 02-2011 §1)~~

#### **5-116****Sec. 6-144. - Penalty.**

~~It is unlawful for any person to violate any of the provisions of this Article. Any such violation is hereby designated a criminal offense, and any person found guilty of violating the provisions of this Article shall, upon conviction thereof, be punished by a fine pursuant to Section 1-72 of this Code. (Ord. 02-2011 §1)~~

ARTICLE VII – [Marijuana Establishment Operations]

#### **Sec. 6-145. - Purpose.**

The purpose of this ordinance is to promote the general public welfare and safety throughout the Town of Green Mountain Falls, Colorado by prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores, in part because Amendment 53 conflicts with Federal law, and to protect the health, safety and welfare of the citizens of the Town of Green Mountain Falls.

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(Ord. No. 01-2013, § I, 7-16-2013)

~~Sec. 6-146. Definitions.~~

Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution. These definitions include, but are not limited to the following:

- (1) ~~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 marihuana 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.~~
- (2) ~~Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.~~
- (3) ~~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.~~
- (4) ~~Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.~~
- (5) ~~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.~~
- (6) ~~Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use and consumption, such as, but not limited to, edible products, ointments, and tinctures.~~
- (7) ~~Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.~~
- (8) ~~Medical marijuana center means an entity licensed by a State agency to sell marijuana and marijuana products pursuant to Section 14 of this Article and the Colorado Medical Marijuana Code.~~
- (9) ~~Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.~~

(Ord. No. 01-2013, § I, 7-16-2013)

~~Sec. 6-147. Violation.~~

The operation, ownership, establishment or conduct of marijuana cultivation facilities, marijuana establishments, marijuana product manufacturing facilities, marijuana products facilities, marijuana testing facilities and retail marijuana stores thereof is unlawful and prohibited within the Town of Green Mountain Falls, Colorado.

(Ord. No. 01-2013, § 1, 7-16-2013)

~~Sec. 6-148. - Penalty.~~

It is unlawful for any person to violate any of the provisions of Article VI. Any such violation is hereby designed a criminal offense, and any person found guilty of violating the provisions of this Article VI shall, upon conviction thereof, be punished by a fine pursuant to Chapter 1, Article IV, Section 1-72, 2 of this Code. In addition to other remedies available to the Town, the Town may commence an action to enjoin the alleged violation of any provision of this Article, or to authorize and compel the removal, termination or abatement of such violation.

(Ord. No. 01-2013, § 1, 7-16-2013)

Secs. 5-117—5-130. - Reserved.

**ARTICLE ~~VIII~~ VII - LICENSING OF SHORT-TERM RENTALS<sup>(2)</sup>**

**Footnotes:**

—(2)—

**Editor's note**— Ord. No. 2018-04, § 1, adopted July 17, 2018, repealed the former Art. VIII, §§ 6-149—6-161, and enacted a new Art. VIII as set out herein. The former Art. VIII pertained to similar subject matter and derived from Ord. No. 04-2017, § 1, adopted Sept. 27, 2017.

**Sec. ~~6-149~~ 5-131. - Purpose and scope.**

The purpose of this Article is to establish comprehensive licensing provisions for whole residential dwelling units made available for rent for a period of time less than thirty (30) days in duration to ensure minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the use and occupancy, location, and maintenance of residential dwellings available for rent. This Article does not apply to the furnishing of lodging services in hotels, motels, or lodges.

(Ord. No. 2018-04, § 1, 7-17-2018)

**Sec. ~~6-150~~ 5-132. - Applicability.**

All owners of residences within residential zone districts, including but not limited to R-1 and R-2 Districts who rent or lease their entire property for a period of time less than thirty (30) days shall comply in full with all terms and conditions contained in this Article. Nothing in this Article shall require an owner to apply for a special use permit under Section 16-710 of the Green Mountain Falls Municipal Code.

(Ord. No. 2018-04, § 1, 7-17-2018)

**Sec. ~~6-151~~ 5-133. - Definitions.**

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For purposes of this Article, the following terms shall have the following meanings:

*Owner* means the record owner of a residential dwelling unit or an authorized agent or designee thereof.

*Rent or lease* means an agreement or act by which an owner gives to a tenant, for valuable consideration, possession and use of ~~his~~their property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

*Short-term rental* means the renting or leasing of an entire residential structure for monetary consideration for a period of time less than thirty (30) consecutive days, not including a bed and breakfast, residency unit, boarding or rooming house, or hotel. The definition does not include offering use of one's property to another where no fee is charged or collected.

*Town Manager* means the appointed administrative official of the Town government, or, in the event of a vacancy, ~~his or her~~their designee, whose duties and responsibilities shall conform to the requirements of ~~Section 2-81 of the Green Mountain Falls Municipal Code.~~

(Ord. No. 2018-04, § 1, 7-17-2018)

#### **Sec. 6-1525-134. - License required.**

No owner shall allow any person to rent or lease, sublease or occupy any short-term rental as a tenant, renter, lessee, sublessee or otherwise, unless the owner has been issued a valid rental property license by the Town. Licenses are permitted in any zone district in the Town where residential occupancy is permitted, provided however, that no commercial space shall be used for a short-term rental. The short-term rental license must be renewed annually for every premises used as a short-term rental. A short-term rental license may be denied or revoked if the owner is not in compliance with the terms and conditions of license or any other applicable laws.

(Ord. No. 2018-04, § 1, 7-17-2018)

#### **Sec. 6-1535-135. - Taxes.**

All owners of short-term rentals are required to collect and remit sales and other applicable taxes. Evidence of issuance of a state sales tax license number is required as a condition of the Town Manager's consideration of a short-term rental license application.

(Ord. No. 2018-04, § 1, 7-17-2018)

#### **Sec. 6-1545-136. - Business license required.**

All owners of short-term rentals are required to possess a current Town business license for each short-term rental property. The business license must be renewed annually. Business license requirements under this Section shall conform to the requirements of ~~Article II of this Chapter.~~

(Ord. No. 2018-04, § 1, 7-17-2018)

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**Sec. ~~6-155~~5-137. - License application; procedure; appeals.**

(a) All owners of short-term rentals must obtain a short-term rental license . Conducting a short-term rental without a valid license is a violation of this ~~Chapter 6~~Article. A license application shall be provided by the Town, and an applicant shall provide the following information:

- (1) Owner name, permanent address, and property address;
- (2) Maximum occupancy of rental guests;
- (3) Owner representative and contact information;
- (4) Parking plan for guests indicating the manner in which the maximum permitted number of cars shall be parked so as to avoid any conflicts with neighboring properties or public right-of-way;
- (5) Evidence of property and liability insurance;
- (6) Proof of a valid business license;
- (7) Proof of a valid sales tax license number;
- (8) Proof of possession of the licensed premises; or
- (9) If the applicant does not own the property where the licensed premises is located, the applicant must provide written documentation from the property owner allowing short-term rentals on the licensed premises; and
- (10) The license application fee set by the Board of Trustees.
- (11) Other documents as required by the Town on its application form.

(b) Licenses are valid until December 31st of each year. The application fee shall be prorated on a monthly basis for any application filed for a license period commencing after January 1st Subject to the requirements of this Article, licenses may be revoked or renewed.

(c) Before issuing a short-term rental license, the applicant shall notify the Town Marshal and all owners of real property within one hundred fifty (150) feet of the proposed short-term rental property who shall be provided an opportunity to make comment on or object to the issuance of the license. The notice shall contain the property location, notice that the full application that may be copied and reviewed at the Town Hall, and notice that comments must be received within fifteen (15) days from the date on which the notice is given. The notice shall be posted on the property and at the Town Hall, and mailed at the applicant's expense.

(d) The Town Manager, after reviewing the license application and any public comments or objection shall approve, approve with conditions, renew, renew with conditions, deny, or revoke the short-term rental license. The Town Manager shall issue the decision within thirty (30) days after receiving a complete application and shall report all decisions at the next regular meeting of the Board of Trustees. A standard condition of approval shall be that the license, as issued, is temporary and conditional until the appeal period, as described in (e) below, has passed, or until any such appeal has been decided, whichever is later.

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(e) — Either the applicant or a property owner within one hundred fifty (150) feet of the proposed short-term rental property may appeal the Town Manager's decision to issue, issue with conditions, renew, renew with conditions, revoke, or deny a short-term rental license. Such appeal shall be filed with the Town Clerk in writing within fifteen (15) days of the decision being reported to the Town Board and shall be heard by the Board of Trustees. The Board of Trustees shall promptly hear and decide all appeals. The decision of the Town Manager (if not timely appealed) or the Board of Trustees (if appealed), is the final decision of the Town for purposes of judicial review.

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(f) — ~~Reserved.~~

(g) — All permitted short-term rentals are subject to inspection under ~~Section 6-10 of this Chapter~~. Licenses may be revoked or not renewed by the Town Manager if license conditions and requirements are not met or if more than three (3) violations of license conditions or the requirements of this Chapter are found within any one (1) license year.

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(h) — ~~g~~ A short-term rental license is non-transferable and may be used only for the property for which it is issued. A short-term rental license is not transferrable upon the sale of the property.

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(Ord. No. 2018-04, § 1, 7-17-2018; Ord. No. 2019-08, § 1, 12-3-2019)

#### **Sec. 6-1565-138. - Limitations; renewal.**

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(a) — An owner shall file with the Town a written application for a short-term rental license at least sixty (60) days prior to rental of the property. For a property owner operating a short-term rental under a prior Town approval, the property owner shall file a written application for a new license under this Article within sixty (60) days of the ordinance's effective date.

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(b) — The Town shall issue no more than sixty (60) short-term rental licenses. When the cap is reached, new license applications will be considered in order of the date received.

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(c) — Licenses shall expire on December 31st of each year. To renew a license, Licensees shall apply to the Town on forms provided by the Town no later than November 1st of each year.

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(d) — In considering issuance or renewal of a short-term rental license, the Town Manager or the Town Board, as appropriate, shall consider any conviction for a municipal code violation within the past year related to the property to be licensed.

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(Ord. No. 2018-04, § 1, 7-17-2018; Ord. No. 2019-08, § 2, 12-3-2019)

#### **Sec. 6-1575-139. - Local agent required.**

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When the owner of a short-term rental property is not a natural person domiciled within El Paso or Teller County, Colorado, the owner shall appoint a natural person who is domiciled within either El Paso or Teller County, Colorado, to serve as the local agent of the owner for service of any notices related to the property or its license. An owner shall notify the Town in writing of any change in the appointment of a local agent within seven (7) days of such change.

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(Ord. No. 2018-04, § 1, 7-17-2018)

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**Sec. 6-1585-140. - Fees.**

(a) — Applicants for short-term rental licenses, or the renewal thereof, shall pay the fee as set by resolution of the Board of Trustees at the time of submitting an application.

(b) — A person wishing to appeal a decision of the Town Manager under this Article shall do so in writing to the Town Clerk and shall be the fee as set by resolution of the Town Board.

(Ord. No. 2018-04, § 1, 7-17-2018)

**Sec. 6-1595-141. - Posting requirements.**

(a) — An owner shall post the license, or a true copy thereof, conspicuously within the rental property for which such license has been issued.

(b) — An owner shall display its license number on the face of any advertisement. For purposes of this Section, the term "advertisement" means the act of drawing the public's attention to a short-term rental in order to promote the availability of the short-term rental.

(Ord. No. 2018-04, § 1, 7-17-2018)

**Sec. 6-1605-142. - Safety requirements.**

Each short-term rental shall comply at all times with all applicable building codes, standards and regulations.

(Ord. No. 2018-04, § 1, 7-17-2018)

**Sec. 6-1615-143. - Enforcement.**

(a) — It is unlawful to violate any provision this Article.

(b) — The Town may enforce the requirements of this Article by any or all of the following:

(1) — The Town Manager shall issue a warning letter to persons conducting a short-term rental without a license.

(2) — The Town Manager may revoke or refuse to renew a short-term rental license for any reason provided in this Article and may prohibit an owner from re-applying for a short-term rental license for one (1) year following revocation or non-renewal.

(3) — Persons found of violating any provision of this Article shall be punished in Municipal Court as hereinafter provided ~~or, if not hereinafter provided, in accordance with the provisions of Sections 2-136 and 1-72 of this Code;~~ provided, that each separate act in violation of this Article, and each and every day or portion thereof during which any separate act in violation of this Article is committed, continued, or permitted, shall be deemed a separate offense.

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1.— The Municipal Court may impose a civil penalty according to a schedule adopted by Resolution of the Board of Trustees, not to exceed four hundred and ninety-nine dollars (\$499.00) per violation. Each day of violation shall constitute a separate offense;

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2.— The Municipal Court may suspend a portion of the fine if the Court finds mitigating circumstances.

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(4)— Any remedies provided for in this Article shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

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~~(Ord. No. 2018-04, § 1, 7-17-2018)~~

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## **CHAPTER 5 - Business Licenses and Regulations**

### **ARTICLE I - Licensing Generally**

#### **Sec. 5-1. - Applications.**

Applications for all licenses and permits required by any provision of this Code shall be made in writing to the Town Clerk in the absence of a specific provision to the contrary. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid, and each application shall contain such additional information as may be needed for the proper guidance of the Town officials in the issuing of the permit or license applied for.

#### **Sec. 5-2. - Persons subject to license.**

Whenever in this Code a license is required for the maintenance, operation or conduct of any business or establishment, for doing business or for engaging in any activity or occupation, any person or corporation shall be subject to the requirement if, by their self or through an agent, employee or partner, the applicant holds themselves forth as being engaged in the business or occupation, solicits patronage therefor, actively or passively or performs or attempts to perform any part of such business or occupation in the Town.

#### **Sec. 5-3. - Forms.**

Forms for all licenses and permits and applications therefor shall be prepared and kept on file by the Town Clerk.

#### **Sec. 5-4. - Signatures.**

Each license or permit issued shall bear the signature of the Town Clerk, in the absence of any specific provision to the contrary. Such license or permit shall be in substantially the following form:

No. \_\_\_\_\_ State of Colorado

By Authority of  
The Town of  
GREEN MOUNTAIN FALLS

#### **LICENSE**

PERMISSION IS HEREBY GIVEN TO \_\_\_\_\_ TO MAINTAIN AND  
CARRY ON THE FOLLOWING DESCRIBED BUSINESS OF \_\_\_\_\_  
FOR THE TERM OF \_\_\_\_ MONTHS, BEING FROM THE \_\_\_\_ DAY OF  
\_\_\_\_\_ A.D., 20\_\_, TO THE \_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_, BOTH  
DAYS INCLUSIVE.

IN TESTIMONY WHEREOF THE SIGNATURE OF THE TOWN CLERK IS  
HEREUNTO AFFIXED THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_.

TOWN CLERK

#### **Sec. 5-5. - Investigations.**

Upon the receipt of an application for a license or permit where any provision of this Code necessitates an inspection or investigation before the issuance of such permit or license, the Town Clerk shall refer such applications to the proper officer, board or commission for making such investigation within forty-eight (48) hours of the time of such receipt. The officer, board or commission charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten (10) days after receiving the application or a copy thereof. The County Health Inspector shall make or cause to be made an inspection in regard to such licenses in connection with the care and handling of food, the prevention of nuisances and the spread of disease, for the protection of health; the Building Inspector shall make or cause to be made any such inspections relative to the construction of buildings or other structures. All other investigations, except where otherwise specifically provided, shall be made by the Town Marshal or by another officer designated by the Town Manager.

#### **Sec. 5-6. - Fees.**

All fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Town Clerk. Except as otherwise provided, all license fees shall become a part of the General Fund.

#### **Sec. 5-7. - Termination of licenses; renewal.**

In the absence of any specific provision to the contrary, all annual licenses shall terminate on the last day of the Town's fiscal year. Unless specifically stated otherwise, all annual licenses may be renewed upon payment of the annual license fee to the Town Clerk without further examination or investigation. The Board of Trustees reserves the right to deny any license renewal when it is deemed by a majority vote of the Board of Trustees that said license would endanger the health, safety and welfare of the Town.

#### **Sec. 5-8. - Building and premises.**

No license shall be issued for the conduct of any business and no permit shall be issued for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of this Code. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of **Chapter 16** of this Code.

#### **Sec. 5-9. - Change of location.**

The location of any licensed business or occupation or of any permitted act may be changed; provided that ten (10) days' notice thereof is given to the Town Clerk in the absence of any provision to the contrary; further provided that the building requirements of this Code are complied with.

#### **Sec. 5-10. - Inspections.**

(a) Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by this Code or are reasonably necessary to secure compliance with any provision of this Code or to detect violations thereof, it

shall be the duty of the licensee or the person in charge of the premises to be inspected to admit thereto for the purpose of making the inspection any officer or employee of the Town who is authorized or directed to make such inspection at any reasonable time that admission is requested, and it shall be unlawful for such person to fail or refuse to admit such officer or employee for such purpose.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any provision of this Code or to detect violations thereof, it shall be the duty of the licensee whose business is governed by such provision to give to any authorized officer or employee of the Town requesting the same sufficient samples of such material or commodity for such analysis upon request, and it shall be unlawful for such licensee to fail or refuse to give such samples to such officer or employee.

(c) Conviction of a violation of any provision of this Article shall automatically forfeit and revoke any license issued under this Chapter; provided that there shall be no violation of this Article unless written demand is made upon the licensee or person in charge of the premises, in the name of the Town, stating that such inspection or sample is desired at the time it is sought to make the inspection of or obtain the sample.

#### **Sec. 5-11. - Revocation.**

The Board of Trustees may, upon seven (7) days' written notice to a licensee stating the contemplated action and in general the grounds therefor and after a reasonable opportunity to be heard, revoke any license issued by the Town if it finds that:

- (1) The licensee has failed to pay the annual license fee;
- (2) The licensee has failed to file any reports or furnish any other information that may be required by the provisions relating to the specific license;
- (3) The licensee has violated any of the terms of the provisions pertaining to their license or any regulation or order lawfully made relating thereto; or existing at the time of the application for such license, would have warranted the refusal of the issuance of such license; or
- (4) The licensee is in violation of any part of this Code.

#### **Sec. 5-12. - Return of fees.**

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

#### **Sec. 5-13. - Posting license.**

It shall be the duty of any person conducting a licensed business in the Town to keep their license posted in a prominent place on the premises used for such business at all times.

#### **Sec. 5-14. – Violation.**

It is unlawful for any person to violate any part of this Article. A violation of this Article is punishable by a fine not exceeding four hundred and ninety-nine dollars (\$499.00). Each day of violation shall constitute a separate offense. In addition to any other available penalties, the Town may enjoin a person from engaging in business in the Town without a license required by this Article.

**Secs. 5-15—5-30. - Reserved.**

## **ARTICLE II - Business Licenses**

### **Sec. 5-31. - Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

- (1) *Business* means any business, trade, occupation, profession, avocation or calling of any kind.
- (2) *Engaged in business* means to carry on or take a part in the operation of a business as owner, operator or agent within the geographical limits of the Town.

### **Sec. 5-32. – License required.**

- (a) Every person desiring to engage in business within the Town shall first obtain a business license from the Town except as otherwise provided herein.
- (b) The license herein required shall not apply to the operation of any business exempt by federal or state law.
- (c) Nonprofit corporations are exempt from the license requirements and fees set forth in this Article subject to approval by the Town Clerk following proof of current nonprofit status.

### **Sec. 5-33. – Business license fee.**

The fee required to obtain a business license under this Article shall be set by resolution of the Board of Trustees and included on the Town's fee schedule.

### **Sec. 5-34. – Term of License.**

Licenses shall expire on December 31st of each year. To renew a license, Licensees shall apply to the Town on forms provided by the Town no later than November 1st of each year.

### **Sec. 5-35. – Separate license for each location.**

Any person operating, conducting or carrying on any business within the City must obtain a separate license for each location of such business and a separate license for each business operated at the same location under a separate Federal Employer I.D. number or Social Security number.

### **Sec. 5-36. - Unlawful procedure.**

It shall be unlawful for any person or their agent to engage in or carry on a business in the Town for which a business license is required without first having paid the required business licensing

fee and obtaining the license required herein. For the purpose of this Article, the opening of a place of business or offering to sell followed by a single sale or the doing of any act or thing in the furtherance of the business shall be construed to be engaging in carrying on such business.

**Secs. 5-37—5-50. - Reserved.**

### **ARTICLE III - Alcoholic Beverages**

#### **Sec. 5-51. – Licensing authority.**

The Board of Trustees is hereby designated the Local Licensing Authority ("Authority") for purposes of exercising the duties and powers provided in the Colorado Liquor Code (C.R.S. § 44-3-101, *et seq.*), the Colorado Beer Code (C.R.S. § 44-4-103, *et seq.*), and issuance of special event liquor permits pursuant to C.R.S. § 44-5-101, *et seq.*

#### **Sec. 5-52. – General provisions.**

The provisions of the Colorado Liquor Code (C.R.S. § 44-3-101, *et seq.*), the Colorado Beer Code (C.R.S. § 44-4-103, *et seq.*), and issuance of special event liquor permits pursuant to C.R.S. § 44-5-101, *et seq.*, together with rules and regulations of the Colorado Department of Revenue, Liquor Enforcement Division, which are applicable to local liquor license authorities and local liquor license applicants, are hereby adopted as part of this Article and are incorporated herein by reference, except to the extent of any inconsistency with the other provisions of this Article. Nothing herein shall be construed to alter or amend powers to condition, suspend or revoke a license.

#### **Sec. 5-53. - License required.**

It is unlawful for any person to engage in the business of selling alcoholic beverages within the Town without first securing an annual liquor license from the Town and from the State. A violation of this Article is punishable by a fine not exceeding four hundred and ninety-nine dollars (\$499.00). Each day of violation shall constitute a separate offense.

#### **Sec. 5-54. - License fees.**

In addition to those fees required by the State, fees payable to the Town shall be as established by resolution of the Board of Trustees, as nonrefundable application fees.

#### **Sec. 5-55. - Restaurant license required.**

It is unlawful for any person to engage in the business of selling alcoholic beverages within the Town without first securing an annual restaurant license as provided in this Chapter, unless exempt under the provisions thereof.

#### **Sec. 5-56. - Fine in lieu of suspension.**

If so requested by a licensee convicted of a violation of the State Liquor or Beer Code and sentenced to a license suspension for a period of fourteen (14) days or less, the Town may agree to accept payment of a fine to be determined by the Board of Trustees in lieu of said suspension. Said fines collected by the Town are to be credited to the General Fund of the Town.

Secs. 5-57—5-70. - Reserved.

## **ARTICLE IV - Mobile Food Vendors and Peddlers**

### **Sec. 5-71. - Mobile food vendors and peddlers licensed.**

It shall be unlawful for any mobile food vendor or peddler as defined herein to engage in such business within the corporate limits of the Town without first obtaining a license therefor in compliance with this Code.

### **Sec. 5-72. - Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Mobile food vendor* means a retail food establishment, designed and equipped to prepare or serve food for immediate consumption, which is readily movable, typically as a motorized or towed vehicle. The term mobile food vendor includes food trucks serving prepared meals, but does not include food delivery vehicles delivering food supplies to restaurants, hotels, businesses, or residences (such as grocery delivery vehicles, pizza delivery, or restaurant food and supply delivery).

*Peddler* means any person, whether a resident of the Town or not, who sells and delivers or offers for sale to consumers any goods, wares, merchandise, fruits, vegetables or country produce, traveling from place to place, from house to house or from street to street, who shall sell or offer for sale and delivery any goods or other such articles while traveling on foot, by vehicle or any other type of conveyance, regardless of whether the items are for immediate or future delivery, or whether payment shall be immediate or in the future. The term peddler includes door-to-door sales people, but does not include individuals not engaging in commercial activity.

### **Sec. 5-73. - Application for a license.**

(a) Applicants for a peddler's license shall file with the Town Clerk at least five (5) days prior to the date upon which the applicant desires to begin their business a sworn application in writing on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the applicant;
- (2) The permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and goods shown for sale or for future delivery;
- (4) If employed, the name, address and phone number of the employer, together with credentials establishing the exact relationship between the employer and employee;
- (5) The length of time for which the right to do business is desired; and
- (6) Two (2) identical photographs of the applicant which reasonably identify the applicant; such photographs to measure two (2) inches by two (2) inches.

(b) Applicants for a mobile food vendor's license shall file with the Town Clerk at least five (5) days prior to the date upon which the applicant desires to begin operation in the Town a sworn application in writing on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the mobile food vendor;
- (2) The local address for the mobile food vendor applicant;
- (3) The length of time for which the right to do business is desired;
- (4) Proposed location and hours of operation for the mobile food vendor;
- (5) Proof of permission to operate on the proposed site, or if the applicant seeks to operate on Town property a concurrent application for permission pursuant to **Section 5-75** of this Code.
- (6) A proposed refuse control plan, including a wastewater disposal plan; and
- (7) Proof of compliance with all applicable state regulations and health department licensing.

**Sec. 5-74. - Investigation and issuance of license.**

(a) For peddler applications, the following procedure shall be followed:

- (1) Upon receipt of such application, an investigation shall be conducted at the direction of the Town Clerk to determine the applicant's business and whether such application is truly for a legitimate business purpose and whether, considering all circumstances, the granting of the license will not threaten the health, safety and welfare of the Town.
- (2) If, as a result of such investigation, it is discovered that the applicant is not intending to use the license for a legitimate business purpose or the granting of the license will threaten the health, safety and welfare of the Town, then the Town Clerk shall notify the applicant of the disapproval of such application and that no license will be issued thereunder, giving the reasons therefor.
- (3) If, as a result of such investigation, the application is found to be satisfactory, the Town Clerk shall endorse the same on the application and, upon receipt of the necessary fees as set forth hereafter, shall execute and deliver to the applicant a license to carry on such business within the corporate limits of the Town for a period, not exceeding thirty (30) days, except as hereinafter set forth.
- (4) The license so issued to a successful applicant shall contain the signature and seal of the issuing officer, the type of license issued, the kind of goods to be sold thereunder, the date of issuance, the expiration date thereof and a two (2) inch by two (2) inch photograph of the applicant.

(b) For mobile vending applications, the following procedure shall be followed:

(1) The Town Clerk shall investigate and determine whether the requirements for mobile food vendors set forth in this Article have been met and whether issuance of the license will jeopardize the health, safety and welfare of the Town. In making such a determination, the Town Clerk shall consider the following criteria:

1. Information contained in the application or supplemental information obtained from the applicant is found to be false in any material detail;
2. The applicant has failed to complete the application after having been notified of any additional information or documents required;
3. The location, size, or nature of the mobile food vending will create undue vehicular or pedestrian traffic congestion;
4. The location, size, or nature of the mobile food vending is incompatible with the neighborhood due to noise, hours, odors, or other impacts;
5. The applicant has failed to pay costs, fees or deposits for any previous special event or demonstration permit; and
6. The applicant has failed to abide by the terms or conditions of any previous special event or demonstration permit.

(2) If, as a result of such investigation, the application is found to be satisfactory, the Town Clerk shall endorse the same on the application and, upon receipt of the necessary fees as set forth hereafter, shall execute and deliver to the applicant a license to operate a mobile vending operation within the corporate limits of the Town for a period of time, not exceeding one (1) year, subject to annual renewal.

**Sec. 5-75. - Mobile food vendors operating on Town property.**

(a) If a mobile food vendor desires to operate on Town property, the application shall be submitted to the Board of Trustees for consideration. In determining whether to grant the requested license, the Board, at its next available meeting, shall consider the following criteria in addition to the criteria set forth in **Section 5-74(b)(1) of this Code:**

1. Whether the mobile food vending operation can operate on Town property without interfering with other uses of such property.
2. Whether mobile food vending is compatible with the nature and purpose of the subject Town property.

(b) The Board of Trustees may deny, approve, or approve with conditions that are necessary to mitigate the negative impacts of the mobile food vending operation.

(c) No mobile food vendor may operate on property owned or controlled by the Town for more than three hundred sixty-five (365) days in any calendar year.

**Sec. 5-76. - License fee.**



The license fee, which shall be charged in advance by the Town Clerk, shall be established by resolution of the Board of Trustees.

**Sec. 5-77. - Suspension/revocation of license.**

(a) Licenses issued hereunder may be suspended or revoked by the Board of Trustees, after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for the license;
- (2) Any violation of this Code;
- (3) For peddlers, fraud, misrepresentation or false statement made while carrying on their business or conviction of any crime or misdemeanor involving moral turpitude; or
- (4) Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a threat to the health, safety or general welfare of the public.

(b) Notice of the hearing for suspension or revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at their local address as set forth in the application at least five (5) days prior to the date set for the hearing.

(c) Whether to suspend or revoke a license shall be determined by the Board of Trustees depending on the nature and severity of the violation, whether the licensee has had previous violations, and other similar factors.

**Sec. 5-78. - Appeal.**

Any person aggrieved by the action of the Police or the Town Clerk in the denial, suspension, or revocation of the same shall have the right to appeal to the Board of Trustees. Such appeal shall be filed within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, by means of a written statement setting forth fully the grounds for the appeal. The Board of Trustees shall set a time and a place for the hearing and shall give notice to the appellant in the same manner as provided in **Section 5-77(b) of this Code.** The decision of the Board of Trustees shall be final and conclusive, except as provided by the laws of the State.

**Sec. 5-79. - Expiration of license.**

All licenses issued under the provisions of this Article shall expire on the dates set forth thereon.

**Secs. 5-80—5-90. - Reserved.**

**ARTICLE V - Restaurants**

**Sec. 5-91. - Definitions.**

For the purposes of this Article, the following words shall have the following meanings:

*Nonperishable food or drink* means any food or drink which, when stored under normal conditions without refrigeration, will not support the rapid and progressive growth of microorganisms which cause food infections or food intoxication.

*Person* means a natural person, partnership, association, company, corporation or organization or manager, agent, servant, officer or employee of any of them.

*Restaurant business* means any place which is kept or maintained for the purpose of preparing or serving food or drink, except that restaurant business does not include:

- a. Homes containing what is commonly known as the family unit, including guests.
- b. Automated food merchandising enterprises which supply only bottled, canned, cartoned or prepackaged nonperishable food or drink and those operations dispensing only chewing gum, salted nuts, nuts in their natural protective covering or packaged candies;
- c. Grocery stores and similar establishments where food is not prepared or sold routinely for immediate consumption; or
- d. Food or beverage manufacturing, processing or packaging plants which are not categorized as restaurant businesses, but are subject to regulatory controls under other local, state or federal laws or regulation.

#### **Sec. 5-92. - License required; fee.**

It is unlawful for any person to engage in any restaurant business without first securing an annual restaurant license and paying a license fee as established by resolution of the Board of Trustees. This fee is payable at the time of the liquor license approval or issuance of a business license. A violation of this Article is punishable by a fine not exceeding four hundred and ninety-nine dollars (\$499.00). Each day of violation shall constitute a separate offense.

#### **Sec. 5-93. - License issuance.**

All applicants must comply with the business licensing requirements of the Town in addition to the provisions of this Article.

#### **Sec. 5-94. - Inspections.**

All applications for a restaurant license or renewal shall be accompanied by a current inspection report from the County Health Department indicating approval or disapproval by the County Health Inspector.

#### **Secs. 5-95—5-110. - Reserved.**

### **ARTICLE VI – Regulated Marijuana Business Prohibition**

#### **Sec. 5-111. - Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Colorado Marijuana Code* means Chapter 10 of Title 44, Colorado Revised Statutes, as may be amended from time to time.

*Marijuana* means all parts of the plant of the genus *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, but excluding industrial hemp, 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.

*Medical marijuana* means marijuana that is grown and sold for a purpose authorized by section 14 of article XVIII of the Colorado Constitution.

*Medical marijuana business* means any entity requiring a license pursuant to the Colorado Marijuana Code, including without limitation a medical marijuana store, a medical marijuana cultivation facility, a medical marijuana products manufacturer, a medical marijuana testing facility, a marijuana research and development licensee, a medical marijuana business operator, or a medical marijuana transporter.

*Medical marijuana product* means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

*Patient* and *primary caregiver* shall have the same meanings as set forth in Article XVIII, Section 14(1) of the Colorado Constitution.

*Regulated marijuana* means medical marijuana, medical marijuana products, retail marijuana, and retail marijuana products, and includes without limitation any marijuana concentrate.

*Regulated marijuana business* means any entity requiring a license pursuant to the Colorado Marijuana Code to engage in the cultivation, consumption, or sale of regulated marijuana, including without limitation any retail marijuana business or medical marijuana business.

*Retail marijuana* means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana business.

*Retail marijuana business* means any entity requiring a license pursuant to the Colorado Marijuana Code, including without limitation a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, a marijuana hospitality business, a retail marijuana hospitality and sales business, a retail marijuana testing facility, a retail marijuana business operator, or a retail marijuana transporter.

*Retail marijuana product* means a product infused with retail marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

## **Sec. 5-112. - Findings.**

(a) The Colorado Marijuana Code clarifies state law regarding the scope and extent of Article XVIII, Section 14 and Article XVIII, Section 16 of the Colorado Constitution.

(b) This Article is necessary to protect and is enacted in furtherance of the public health, safety and welfare of the Town.

(c) This Article is intended to apply and shall apply to all property, businesses and business enterprises operating within the Town, whether stationary, mobile or virtual.

#### **Sec. 5-113. - Purpose.**

The purpose of this Article is to promote the general public welfare and safety throughout the Town of Green Mountain Falls, Colorado by prohibiting the operation of regulated marijuana businesses to protect the health, safety and welfare of the citizens of the Town of Green Mountain Falls.

#### **Sec. 5-114. – Regulated marijuana businesses prohibited.**

It is unlawful for any person to establish, operate, cause to be operated or permit to be operated a regulated marijuana business in the Town. The operation, ownership, establishment or conduct of a regulated marijuana business is unlawful and prohibited within the Town of Green Mountain Falls, Colorado.

#### **Sec. 5-115. – Patients and primary caregivers.**

Nothing in this Article shall be construed to prohibit, regulate or otherwise impair the protections of the use of medical marijuana by patients as provided in Article XVIII, Section 14 of the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and rules promulgated thereunder.

#### **Sec. 5-116. - Penalty.**

It is unlawful for any person to violate any of the provisions of this Article. Any such violation is hereby designed a criminal offense, and any person found guilty of violating the provisions of this Article shall, upon conviction thereof, be punished by a fine pursuant to **Section 1-42 of this Code**. In addition to other remedies available to the Town, the Town may commence an action to enjoin the alleged violation of any provision of this Article, or to authorize and compel the removal, termination or abatement of such violation.

**Secs. 5-117—5-130. - Reserved.**

### **ARTICLE VII - LICENSING OF SHORT-TERM RENTALS**

#### **Sec. 5-131. - Purpose and scope.**

The purpose of this Article is to establish comprehensive licensing provisions for whole residential dwelling units made available for rent for a period of time less than thirty (30) days in duration to ensure minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the use and occupancy, location, and maintenance of residential

dwellings available for rent. This Article does not apply to the furnishing of lodging services in hotels, motels, or lodges.

#### **Sec. 5-132. - Applicability.**

All owners of residences within residential zone districts, including but not limited to R-1 and R-2 Districts who rent or lease their entire property for a period of time less than thirty (30) days shall comply in full with all terms and conditions contained in this Article. Nothing in this Article shall require an owner to apply for a special use permit under **Section 16-710 of this Code.**

#### **Sec. 5-133. - Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Owner* means the record owner of a residential dwelling unit or an authorized agent or designee thereof.

*Rent or lease* means an agreement or act by which an owner gives to a tenant, for valuable consideration, possession and use of their property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

*Short-term rental* means the renting or leasing of an entire residential structure for monetary consideration for a period of time less than thirty (30) consecutive days, not including a bed and breakfast, residency unit, boarding or rooming house, or hotel. The definition does not include offering use of one's property to another where no fee is charged or collected.

*Town Manager* means the appointed administrative official of the Town government, or, in the event of a vacancy, their designee, whose duties and responsibilities shall conform to the requirements of **Section 2-81 of this Code.**

#### **Sec. 5-134. - License required.**

No owner shall allow any person to rent or lease, sublease or occupy any short-term rental as a tenant, renter, lessee, sublessee or otherwise, unless the owner has been issued a valid rental property license by the Town. Licenses are permitted in any zone district in the Town where residential occupancy is permitted, provided however, that no commercial space shall be used for a short-term rental. The short-term rental license must be renewed annually for every premises used as a short-term rental. A short-term rental license may be denied or revoked if the owner is not in compliance with the terms and conditions of license or any other applicable laws.

#### **Sec. 5-135. - Taxes.**

All owners of short-term rentals are required to collect and remit sales and other applicable taxes. Evidence of issuance of a state sales tax license number is required as a condition of the Town Manager's consideration of a short-term rental license application.

#### **Sec. 5-136. - Business license required.**

All owners of short-term rentals are required to possess a current Town business license for each short-term rental property. The business license must be renewed annually. Business license requirements under this Section shall conform to the requirements of **Article II of this Chapter**.

**Sec. 5-137. - License application; procedure; appeals.**

(a) All owners of short-term rentals must obtain a short-term rental license . Conducting a short-term rental without a valid license is a violation of this Article. A license application shall be provided by the Town, and an applicant shall provide the following information:

- (1) Owner name, permanent address, and property address;
- (2) Maximum occupancy of rental guests;
- (3) Owner representative and contact information;
- (4) Parking plan for guests indicating the manner in which the maximum permitted number of cars shall be parked so as to avoid any conflicts with neighboring properties or public right-of-way;
- (5) Evidence of property and liability insurance;
- (6) Proof of a valid business license;
- (7) Proof of a valid sales tax license number;
- (8) Proof of possession of the licensed premises; or
- (9) If the applicant does not own the property where the licensed premises is located, the applicant must provide written documentation from the property owner allowing short-term rentals on the licensed premises; and
- (10) The license application fee set by the Board of Trustees.
- (11) Other documents as required by the Town on its application form.

(b) Licenses are valid until December 31st of each year. The application fee shall be prorated on a monthly basis for any application filed for a license period commencing after January 1st. Subject to the requirements of this Article, licenses may be revoked or renewed.

(c) Before issuing a short-term rental license, the applicant shall notify the Town Marshal and all owners of real property within one hundred fifty (150) feet of the proposed short-term rental property who shall be provided an opportunity to make comment on or object to the issuance of the license. The notice shall contain the property location, notice that the full application that may be copied and reviewed at the Town Hall, and notice that comments must be received within fifteen (15) days from the date on which the notice is given. The notice shall be posted on the property and at the Town Hall, and mailed at the applicant's expense.

(d) The Town Manager, after reviewing the license application and any public comments or objection shall approve, approve with conditions, renew, renew with conditions, deny, or revoke the short-term rental license. The Town Manager shall issue the decision within thirty (30) days

after receiving a complete application and shall report all decisions at the next regular meeting of the Board of Trustees. A standard condition of approval shall be that the license, as issued, is temporary and conditional until the appeal period, as described in (e) below, has passed, or until any such appeal has been decided, whichever is later.

(e) Either the applicant or a property owner within one hundred fifty (150) feet of the proposed short-term rental property may appeal the Town Manager's decision to issue, issue with conditions, renew, renew with conditions, revoke, or deny a short-term rental license. Such appeal shall be filed with the Town Clerk in writing within fifteen (15) days of the decision being reported to the Town Board and shall be heard by the Board of Trustees. The Board of Trustees shall promptly hear and decide all appeals. The decision of the Town Manager (if not timely appealed) or the Board of Trustees (if appealed), is the final decision of the Town for purposes of judicial review.

(f) All permitted short-term rentals are subject to inspection under **Section 5-10 of this Code**. Licenses may be revoked or not renewed by the Town Manager if license conditions and requirements are not met or if more than three (3) violations of license conditions or the requirements of this Chapter are found within any one (1) license year.

(g) A short-term rental license is non-transferable and may be used only for the property for which it is issued. A short-term rental license is not transferrable upon the sale of the property.

#### **Sec. 5-138. - Limitations; renewal.**

(a) An owner shall file with the Town a written application for a short-term rental license at least sixty (60) days prior to rental of the property. For a property owner operating a short-term rental under a prior Town approval, the property owner shall file a written application for a new license under this Article within sixty (60) days of the ordinance's effective date.

(b) The Town shall issue no more than sixty (60) short-term rental licenses. When the cap is reached, new license applications will be considered in order of the date received.

(c) Licenses shall expire on December 31st of each year. To renew a license, Licensees shall apply to the Town on forms provided by the Town no later than November 1st of each year.

(d) In considering issuance or renewal of a short-term rental license, the Town Manager or the Town Board, as appropriate, shall consider any conviction for a municipal code violation within the past year related to the property to be licensed.

#### **Sec. 5-139. - Local agent required.**

When the owner of a short-term rental property is not a natural person domiciled within El Paso or Teller County, Colorado, the owner shall appoint a natural person who is domiciled within either El Paso or Teller County, Colorado, to serve as the local agent of the owner for service of any notices related to the property or its license. An owner shall notify the Town in writing of any change in the appointment of a local agent within seven (7) days of such change.

#### **Sec. 5-140. - Fees.**

(a) Applicants for short-term rental licenses, or the renewal thereof, shall pay the fee as set by resolution of the Board of Trustees at the time of submitting an application.

(b) A person wishing to appeal a decision of the Town Manager under this Article shall do so in writing to the Town Clerk and shall be the fee as set by resolution of the Town Board.

**Sec. 5-141. - Posting requirements.**

(a) An owner shall post the license, or a true copy thereof, conspicuously within the rental property for which such license has been issued.

(b) An owner shall display its license number on the face of any advertisement. For purposes of this Section, the term "advertisement" means the act of drawing the public's attention to a short-term rental in order to promote the availability of the short-term rental.

**Sec. 5-142. - Safety requirements.**

Each short-term rental shall comply at all times with all applicable building codes, standards and regulations.

**Sec. 5-143. - Enforcement.**

(a) It is unlawful to violate any provision this Article.

(b) The Town may enforce the requirements of this Article by any or all of the following:

(1) The Town Manager shall issue a warning letter to persons conducting a short-term rental without a license.

(2) The Town Manager may revoke or refuse to renew a short-term rental license for any reason provided in this Article and may prohibit an owner from re-applying for a short-term rental license for one (1) year following revocation or non-renewal.

(3) Persons found of violating any provision of this Article shall be punished in Municipal Court as hereinafter provided; provided, that each separate act in violation of this Article, and each and every day or portion thereof during which any separate act in violation of this Article is committed, continued, or permitted, shall be deemed a separate offense.

1. The Municipal Court may impose a civil penalty according to a schedule adopted by Resolution of the Board of Trustees, not to exceed four hundred and ninety-nine dollars (\$499.00) per violation. Each day of violation shall constitute a separate offense;

2. The Municipal Court may suspend a portion of the fine if the Court finds mitigating circumstances.

(4) Any remedies provided for in this Article shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.



## CHAPTER 7 - Health, Sanitation and Animals

### ARTICLE I - Nuisances

#### Sec. ~~76-1.~~ ~~Nuisance defined.~~ Declaration of nuisances.

~~Anything~~Any thing or activity which is injurious to the health or morals, indecentunreasonably annoys or offensive to the senses or an obstruction to the free use of property so as to interfereinterferes with the comfortableuse or enjoyment of life or property ispublic or private property or which constitutes a health or safety hazard, anything that violates the provisions of this Code, or anything declared to be a nuisance and as such by Town ordinance or by statutes or regulations of the State shall be abated. in accordance with the provisions contained herein and, in addition, subject to the penalties provided for in Section 6-13.

(Prior code 8-1-1)

#### Sec. ~~76-2.~~ ~~County Health Department powers.~~

The County Health Department has the full power to take all measures necessary to promote the health and cleanliness, to abate all nuisances of every description on public and private property, to abate infectious diseases and to remove, detain, isolate or quarantine any person or persons attacked by or having any such disease or anyoneexposed thereto and to promulgate such rules and regulations as may be necessary to perform its functions. The County Health Department shall have the authority to enforce such rules of the Health Department of the State as are applicable to particular situations.

(Prior code 8-1-2)

#### Sec. ~~7-3.~~ Investigation.

The Town Marshal is hereby authorized to investigate any matter at any place within the Town and which reasonably appears to be in violation of the provisions of this Chapter.

(Ord. 02-2008 §1)

#### Sec. ~~7-4.~~ Right of entry.

(a) Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever the Town Marshal has reasonable cause to believe that there exists in any building or upon any premises any condition or violation which makes such building or premises unsafe, dangerous, hazardous, unsanitary or constitutes a nuisance, such officer may enter such premises at all reasonable times to inspect it or to perform any duty imposed upon the Town Marshal by this Chapter. If such building or premises are occupied, the Town Marshal shall first present proper credentials and request entry. If such building or premises are unoccupied, the Town Marshal shall first make a reasonable effort to locate the owner or the owner's agent, manager, lessee or occupant and request entry. If such entry is refused, the officer shall give the owner or the owner's agent, manager, lessee or occupant, or if the owner or the owner's agent, manager, lessee or occupant cannot be located after a reasonable effort, the officer shall post upon a conspicuous place upon the premises, a written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice shall state that the owner or the owner's agent, manager, lessee or occupant has the right to refuse entry and that, in the event such entry is refused or the officer has been unable to obtain permission of the owner or the owner's agent, manager, lessee or occupant, inspection may be made only upon issuance of a search or inspection warrant by the Municipal Judge or by a judge of any other court having jurisdiction.

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(b) ~~The Town Marshal may appear before the Municipal Judge and, upon a showing of probable cause, shall obtain a search warrant entitling such officer to enter the building or upon the premises, using such reasonable force as may be necessary to gain entry. The officer applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the structure or premises at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinary prudent person to act. The Municipal Judge shall have the power to issue search warrants pursuant to the Colorado Municipal Court Rules of Procedure, upon a showing of probable cause of the existence of such condition or nuisance.~~

(c) ~~When the Town Marshal shall have first obtained a search warrant or other remedy provided by law to secure entry, no owner or the owner's agent, manager, lessee or occupant shall fail or neglect, after proper request is made, to promptly permit entry by the Town Marshal for the purpose of inspection and examination pursuant to this Chapter.~~

(d)(a) Whenever the Town has reasonable cause to believe a nuisance exists, an authorized representative of the Town may enter upon or into any lot or upon any property, building or premises, with the owner's or occupant's permission, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action or liability on account thereof. If permission is denied, the Town shall obtain an order by the Municipal Judge or from a court of competent jurisdiction authorizing entry.

(b) Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, the Town Marshal may enter into any building or upon any premises, using such reasonable force as may be necessary. An emergency situation includes any situation of imminent danger of loss of, or injury or damage to, life, limb or property, or threat to public safety. It is unlawful for any owner or the owner's agent, manager, lessee or occupant of the building or premises to deny entry to any officer or to resist reasonable force used by any officer acting pursuant to this Chapter.

(Ord. 02-2008 §1)

#### **Sec. 7-56-3, - Notice of violation and abatement.**

(a) If, after investigation, the Town Marshal has reason to believe that a lot or parcel of land is being maintained in violation of this Chapter, the Town Marshal has the discretion to issue a verbal warning or a written notice of violation. A written notice shall either be served personally or be sent by first-class mail to the owner or the owner's agent, manager, lessee or occupant of the property. If the written notice is sent by mail, the Town Marshal shall also cause the property where the violation of this Chapter is located to be posted in a conspicuous place visible from an adjacent public right-of-way. Such notice of violation shall state the date issued, the name of the person to whom the notice is issued, the address of the property, the violations cited and notice to set a date by which the owner must abate the violation forthwith, and be signed by the issuing officer.

(b) In case of any such nuisance in or upon any street, alley, sidewalk, highway or public grounds in the Town, the Town Marshal may abate the same forthwith without such notice being given.

(Ord. 02-2008 §1)

#### **Sec. 7-6, - Issuance of summons and complaint.**

A summons and complaint may be issued to the person or persons named in the notice of violation unless satisfactory arrangements for an extension of time have been made with the Town Marshal.

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(Ord. 02-2008 §1)

**Sec. 7-7. Declaration of nuisance by Board of Trustees.**

In the event that any such nuisance is not abated forthwith after the notice herein provided shall be given, the Board of Trustees may declare the same to be a nuisance and order the Town Marshal to abate the same without delay. The Town Marshal shall have the authority to call for the necessary assistance therefor.

(Ord. 02-2008 §1)

**Sec. 7-8. Right of Town to enter property, abate nuisance and bill owner for same.**

(a) Upon the failure, neglect or refusal of the owner or the owner's agent, manager, lessee or occupant of the property to remedy the circumstance being maintained in violation of this Chapter, the Town Marshal is hereby authorized to enter such property, after giving proper notice of violation as set forth in this Chapter, and to remedy the cited violation. The cost of such abatement plus an administrative fee of seventy-five dollars (\$75.00) shall be collected from the record owner of such property and shall apply independently and in addition to the penalty provided for the violation of this Chapter.

(b) In the event the owner or the owner's agent, manager, lessee or occupant of such property fails to pay such costs of abatement within fifteen (15) thirty (30) days after billing, a lien may be assessed against the property for such costs. The lien hereby created shall be superior and prior to other liens regardless of date, except for liens for general property taxes and special assessments. The Town Clerk shall certify to the County Treasurer the assessments which are not paid within twenty (20) thirty (30) days after billing. Ten percent (10%) of the amount shall be added to the assessments to pay the cost of collection.

(d) In case of any such nuisance in or upon any street, alley, sidewalk, highway or public grounds in the Town, the Town may abate the same forthwith without such notice being given.

(e) nothing set forth in this chapter shall be considered to be a prerequisite for commencing an action for such violation in municipal court.

**Sec. (Ord. 02-2008 §1)**

**6-4 Sec. 7-9. Penalties.**

Whenever, in any Section of this Article or any regulation promulgated hereunder, the doing of any act is required, prohibited or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, any person who shall be convicted of a violation of any such Section shall be punished pursuant to Section 1-72 of this Code.

(Prior code 8-1-9)

**Sec. 7-10. - Junkyards and dumping grounds.**

All places used or maintained as junkyards or dumping grounds for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, for the storing or leaving

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of worn-out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats, housetrailer or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors, builders or other persons, which places are kept in such manner as to essentially interfere with the comfortable enjoyment of life or property by others, are persons are hereby declared to be a nuisance.

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(Prior code 8-2-1)

#### **Sec. 7-14-5. - Discharge of nauseous liquids.**

It shall be unlawful to discharge out of or from or permit to flow, from any house or place, foul or nauseous liquids or substances of any kind whatsoever into or upon any adjacent ground or lot or into any street, alley or public place in the Town.

(Prior code 8-2-2)

#### **Sec. 7-14-6. - Stale matter.**

It shall be unlawful to keep, collect or use or cause to be kept, collected or used in the Town any stale, putrid or stinking fat, grease or compost for a nonhousehold use and in a manner which threatens the health and welfare of the Town.

(Prior code 8-2-3)

#### **Sec. 6-7-13. - Sewer inlet.**

It shall be unlawful to deposit in or throw into any sewer, sewer inlet or privy vault that shall have a sewer connection any article whatsoever that might cause such sewer, sewer inlet or privy vault to become nauseous or offensive to others or injurious to public health.

(Prior code 8-2-4)

#### **Sec. 7-14. - Slaughterhouse.**

No commercial slaughterhouse or other place for slaughtering animals shall be kept within this Town.

(Prior code 8-2-5)

#### **6-8Sec. 7-15. - Dead animals; removal.**

When any animal shall die in this Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith beyond the limits of the Town. If such body shall not forthwith be removed, the same shall be deemed a nuisance and such owner or keeper shall cause a nuisance to exist. When the body of any such dead animal shall be in any street, highway or public grounds in this Town, it shall be the duty of the Town Marshal to cause such body to be removed forthwith beyond the limits of the Town.

(Prior code 8-2-6)

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**Sec. 7-166-9. - Stagnant ponds.**

Any cellar, vault, drain, sewer, pond of water or other place upon or within any private premises or grounds in the Town that shall be nauseous or offensive to others or injurious to public health through an accumulation or deposition of nauseous, offensive or foul water or other substances, shall be deemed a nuisance. This applies in all cases for which no other specific provisions are made in this Article or any other ordinance of the Town.

(Prior code 8-2-7)

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**Sec. 7-176-10. - Open wells, cisterns or excavations.**

It is hereby declared that excavations exceeding five (5) feet in depth, cisterns and wells or an excavation used for storage of water are public nuisances unless the same are adequately covered with a locked lid or other covering weighing at least sixty (60) pounds or are securely fenced with a solid fence to a height of at least five (5) feet, and it shall be unlawful for any person to permit such nuisance to remain on the premises owned or occupied by him or her.

(Prior code 8-2-8)

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**Sec. 7-186-11. - Handbills, posters and placards.**

Any handbill, poster, placard or painted or printed matter which shall be stuck, posted or passed upon any public or private house, store 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 house, shall be deemed a nuisance and may be abated as provided in this Chapter.

Sec. -

(Prior code 8-2-9)

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**Sec. 7-19. - Additional provisions.**

The above enumerated provisions of this Article are in no way deemed to be exclusive and anything declared a nuisance under Section 7-1 shall be abated in accordance with the provisions contained therein and, in addition, subject to the penalties provided for in Section 7-9.

(Prior code 8-2-10)

**Sec. 7-206-12. - Prohibiting discharge of sewage, effluent or contaminated matter**

(a) It is unlawful to discharge or to permit or suffer the discharge of sewage, effluent or matter contaminated by sewage or effluent, either upon the surface of the ground or into any creek or waterway within the Town.

(b) The owners of any property where people live, work or congregate shall provide an adequate sewage disposal system in good working order and constructed, installed and maintained in accordance with rules adopted pursuant to Section 25-10-106, C.R.S., and this Article.

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(c) The Marshal's Department shall have the authority to have a malfunctioning sewage disposal system pumped or repaired, with the expense to be charged to the property owner.

~~(Ord. 2001-02 §1)~~

~~Sec. 7-21. Violation 6-13. - Penalty.~~

~~Whenever, in any Section of this Article or any regulation promulgated hereunder, the doing of any act is required, prohibited or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, any person who shall be convicted of a violation of any such Section shall be punished pursuant to Section 1-42 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this chapter in which event the Town shall be entitled to recover court costs and attorney fees. Each day that such violation is committed or permitted to continue shall constitute a separate offense. The penalty fines for violations existing within Section 7-20 above shall be established by resolution of the Board of Trustees.~~

~~(Ord. 2001-02 §2)~~

~~Secs. 7-22 - 7-40 6-14 - 6-30. - Reserved.~~

~~ARTICLE II - Refuse~~

~~Sec. 7-41 6-31. - Definitions.~~

For the purposes of this Article, the following terms shall have the meanings indicated:

*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, metal binding, sacks, 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 any trash can, dumpster or similar device used for the collection and storage of solid waste or recyclable material with food or the scent of food.

*Wildlife* means any nondomesticated mammal indigenous to the Ute Pass area, including but not limited to bear, deer, elk, raccoon, coyote, fox, skunk, bobcat, mountain lion and porcupine.

*Wildlife-proof enclosure* means a fully enclosed structure capable of keeping wildlife out. The door shall have a latching device of sufficient design and strength to prevent access by wildlife.

*Wildlife-resistant refuse container* means a fully enclosed rigid container with a rigid lid. The lid must have a latching mechanism, which limits access to the contents by wildlife. Plastic bags are not wildlife-resistant refuse containers.

~~(Ord. 02-2004 §1)~~

~~Sec. 7-42 6-32. - Accumulation and deposit of refuse; prohibited and declared nuisance.~~

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(a) Any accumulation of refuse or deposit of any refuse other than in closed containers, on any premises, improved or unimproved, in the Town is prohibited and is hereby declared to be a nuisance. No person shall in any manner throw, place, scatter, deposit or bury, or set on fire or burn any refuse or other combustible materials, deposit refuse or waste materials or ashes in or upon any public street, alley or other public place or upon his or her own premises or the premises of another.

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~~(Prior code 10-1-2)~~

~~Sec. 7-43. — Abatement.~~

~~Whenever the Board of Trustees shall direct, the Town Clerk shall immediately thereafter notify any owner of property, his or her agent or any person having charge of such property, in writing, that an order has been made by the Board of Trustees requiring the removal of any accumulated refuse from such property or b) All refuse shall be removed periodically from all premises within fifteen (15) days after service of notice. If such property owner, agent or person having charge of such property shall not remove such refuse in accordance with the requirement of such order, the Board of Trustees may order that such refuse be removed by the Town Clerk or other agent of the Board of Trustees and assess the cost thereof against the property or premises. The amount so assessed shall be a lien upon such property until the same is paid; provided that, in case of failure to pay such assessment within ten (10) days after the same shall be made, the Town Clerk shall cause a notice of such assessment to be given to the owner of such property by publishing in a news-paper in general circulation in the Town for two (2) successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his or her property and shall designate a time and place when the Board of Trustees will hear any objections as to the adjustment and corrections of the amount so assessed. If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the Town Clerk shall certify such assessment to the County Treasurer to be placed on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty to defray the cost of collection as provided by the laws of the State.~~

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~~(Prior code 10-1-3)~~

~~Sec. 7-44. — Accumulation and deposit of garbage prohibited.~~

~~No person shall deposit or place any garbage, rubbish, waste material or ashes in other than closed containers or in such a manner that the same is or tends to become a nuisance or in such a manner as it endangers or tends to endanger the public health. No person shall in any manner throw, place, scatter, deposit or bury any garbage, rubbish, waste materials or ashes in or upon any public street, alley or other public place or upon his or her own premises or the premises of another.~~

~~(Prior code 10-1-4)~~

~~Sec. 7-45. — Refuse not to be thrown in streets, vacant lots.~~

~~No hay, straw, shavings, excelsior, paper or other combustible material, sod, lawn mowings, leaves, weeds, ashes, glass, bottles, broken glass, nails, tacks, wire, cans, rocks, stones or rubbish of any kind or nature whatsoever or any other refuse or material shall be thrown or swept into any street, sidewalk, gutter, sewer, intake, alley, vacant lot or other property.~~

~~(Prior code 10-1-5)~~



~~Sec. 7-46. — Responsibility of owners and lessees for refuse on premises.~~

~~It shall be the duty of every person, whether owner, lessee or renter, of any vacant lot, in the Town so that the premises are clean and orderly at all times. All loose, discarded or unused building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Any such accumulation shall constitute a nuisance and shall be nonconforming in the use of such premises.~~

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~~(Prior code 10-1-6)~~

~~Sec. 7-47. — Building materials to be removed material from construction sites.~~

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~~All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose, discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk or building shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise and shall be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property.~~

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~~(Prior code 10-1-7)~~

~~Sec. 7-48. — Removal of refuse from business required.~~

~~Discarded 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. Silt and similar deposits from automobile wash racks shall be removed by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or inflammable which might endanger life or property shall be removed to such places as approved by the Town Marshal or the Fire Chief, such removal to be handled by the establishments responsible therefor.~~

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~~(Prior code 10-1-8)~~

~~Sec. 7-49. — Accumulation and use of manure.~~

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~~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 an alternative use, but shall be either plowed under or removed by the owner, occupant or agent.~~

~~(Prior code 10-1-9)~~

~~Sec. 7-50. — Burning of garbage and waste material.~~

~~No person shall set on fire or burn any garbage, rubbish or waste material or any hay, grass clippings or other combustible materials except waste paper in any ash pit or other receptacle or upon the ground. Any such act is a nuisance because of smoke and odor.~~

~~(Prior code 10-1-10)~~



~~Sec. 7-546-33. - Wildlife-resistant refuse containers or enclosures required.~~

Except for a container which has a minimum of seven (7) days per week pickup, any refuse container, regardless of size, ~~including construction site containers~~ that receives, between the dates of April 1 and the last day of November, inclusive, refuse which is edible by bears or other wildlife, shall be kept closed and secure in either:

- (1) An approved wildlife-proof enclosure or;
- (2) A wildlife-resistant refuse container which is stored within a building, house, garage or approved wildlife-proof enclosure.

~~(Ord. 02-2004 §II)~~

~~Sec. 7-52. - Maintenance and operation of wildlife-resistant refuse containers and wildlife-proof enclosures.~~

~~(a) — Wildlife-resistant refuse containers and wildlife-proof enclosures must be kept closed and secure when refuse is not being deposited.~~

~~(b) — If a container or enclosure is damaged, allowing access by wildlife, repairs must be made within one (1) week after written notification by the Marshal's office or Town Clerk is received.~~

~~(Ord. 02-2004 §II)~~

~~Sec. 7-536-34. - Residential refuse disposal.~~

~~(a) Residents with curbside pickup shall place their refuse containers outside only on the morning of pickup. After pickup, the containers must be stored inside the home, garage or wildlife-proof enclosure by 9:00 p.m.~~

~~(b) Plastic bags are not considered an acceptable container for refuse edible by wildlife.~~

~~(Ord. 02-2004 §II)~~

~~Sec. 7-546-35. - Special event refuse disposal.~~

~~Outdoor special event sites shall be kept free from the accumulation of refuse edible by wildlife. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited in wildlife-proof enclosures or be removed to an appropriate disposal site.~~

~~Sec. 6-36. - Penalty.~~

~~(Ord. 02-2004 §II)~~

~~Sec. 7-55. - Construction site refuse disposal.~~

~~All construction sites must have a designated container that receives refuse edible by wildlife. This container shall be either a wildlife-proof enclosure or a wildlife-resistant container that is securely stored inside a trailer, building or a wildlife-proof enclosure.~~

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~~(Ord. 02-2004 §II)~~

~~Sec. 7-56. – Enforcement.~~

- ~~(a) The Marshal's Department may issue a summons and complaint to any person in violation of this Chapter.~~
- ~~(b) The Marshal's Department shall have the right to inspect property concerning a potential wildlife attractant.~~

~~(Ord. 02-2004 §II)~~

~~Sec. 7-57. – Penalty.~~

~~The penalty fines for violations existing within this Section shall be established by resolution of the Board of Trustees.~~

~~(Ord. 02-2004 §II)~~

Any person who shall be convicted of a violation of any Section hereunder shall be punished pursuant to Section 1-42 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this chapter in which event the Town shall be entitled to recover court costs and attorney fees. Each day that such violation is committed or permitted to continue shall constitute a separate offense subject to the penalties provided for in Section 6-13.

**Secs. 7-58 – 7-70 (6-37 – 6-50). - Reserved.**

**ARTICLE III - Weeds and Brush**

**Sec. 7-71-6-51. - Definitions.**

For the purpose of this Article, the following words and phrases shall have the following meanings, unless the context indicates otherwise:

- (1) *Brush* means any unsightly, useless, troublesome or injurious volunteer growth of bushes or shrubbery, which shall include all cuttings from said bushes and shrubbery.
- (2) *Weed* means any unsightly, useless, troublesome or injurious herbaceous plant including, but not limited to, those undesirable plants commonly known as leafy spurge, diffuse knapweed, Russian knapweed and spotted knapweed.

~~(Ord. 92-04 §1)~~

~~Sec. 7-72. – Designation of Undesirable Plant Management Advisory Commission.~~

~~The Board of Trustees is appointed to act as the Undesirable Plant Management Advisory Commission for the Town and shall have the duties and responsibilities as provided by state statute.~~

~~(Ord. 92-04 §1)~~

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~~Editor's note — Section 35-5.5-101, C.R.S., establishes the requirements for undesirable plant management in the State.~~

~~Sec. 7-736-52. - Declaration of nuisance and removal.~~

~~(a) Any weeds or brush found growing in any lot or tract of land in the Town is hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds or brush to grow or remain in any such place.~~

~~(Ord. 92-04 §1)~~

~~Sec. 7-74. — Duty of property owner to cut.~~

~~(b) It shall be the duty of each and every person owning, occupying or possessing any lots, tracts or parcels of land within the Town to cut to the ground all weeds and brush when said weeds and brush grow to a height of twelve (12) inches or more.~~

~~(Ord. 92-04 §1)~~

~~Sec. 7-75. — Removal from Town.~~

~~(c) All weeds and brush cut in accordance with Section 7-74 hereof shall, immediately upon being cut, be removed from the Town or otherwise entirely destroyed by the owner of the lot upon which the weeds and brush have been cut.~~

~~(Ord. 92-04 §1)~~

~~Secs. 7-76 — 7-90b-33 — 6-70. - Reserved.~~

~~ARTICLE IV - Animals~~

~~Sec. 7-916-71. - Definitions.~~

~~Whenever in this Chapter the words hereinafter defined or construed in this Section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:~~

~~(1) *Animal Control Officer* means the person, persons, firm, club, association, partnership, society, corporation or other organization employed or appointed by the Town to carry out and enforce the provisions of this Article.~~

~~(2) *At large* means:~~

~~a. Off the premises of the owner, other than on or within a vehicle, and not under the control of the owner or a member of his or her immediate family or other competent, responsible and/or authorized person by means of a restraining device which keeps the animal within ten (10) feet of the controlling party; or~~

~~b. Creating a nuisance, including but not necessarily limited to, trespassing on private property, jumping on, snapping at or otherwise threatening persons or other animals, causing litter by~~

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~~overturning trash cans or similar misbehavior, defecating on property not the owner's and by similar actions of a dangerous and/or damaging nature.~~

~~(3)(3) *Exotic Animal* means an animal that is not a household pet or livestock, is wild in nature and may or may not have the ability to inflict bodily harm on humans, including, without limitation, snakes in excess of four feet in length.~~

~~(4) *Owner* means any person or persons, firm, association, club, corporation, partnership, society or any other organization owning, keeping, possessing or harboring animals, or designated in such capacity by the owner as hereinafter set forth.~~

~~(4.5) *Vicious animal* means any animal that, unprovoked, bites or attacks persons or other animals, either on public or private property, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks or any public ground or place.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

**~~Sec. 7-926-72. - Running at large prohibited.~~**

~~It shall be is unlawful for any owner of any animal to permit the same to run at large within the Town.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

**~~Sec. 7-936-73. - Impoundment of animals running at large; costs.~~**

~~If any animal shall be found running at large, it is hereby made the duty of the Animal Control Officer to take up and impound the animal at the Humane Society of the Pikes Peak Region at the owner's expense. An animal may be impounded and shall not be released until any and all applicable charges for the Humane Society of the Pikes Peak Region and for the Town, as established by resolution of the Board of Trustees, are paid.~~

~~(Ord. 2-1985 §II; Ord. 5-1989 §II; Ord. 92-04 §1; Ord. 96-01 §I)~~

**~~Sec. 7-946-74. - Disposition and/or adoption of impounded animals.~~**

~~If the owner or person entitled to the possession of an animal does not pay any and all applicable charges and claim the animal within three (3) calendar days of the date of impoundment, the policies and procedures of the Humane Society of the Pikes Peak Region for disposition, including placement for adoption will be followed.~~

~~(Ord. 5-1989 §II; Ord. 96-01 §I)~~

**~~Sec. 7-95. - Grazing upon public thoroughfare.~~**

~~It shall be unlawful for any person to picket, lead or hold any horse, cattle or other livestock on or along any street, sidewalk or alley or for any person to picket, lead or hold any horse, cattle or other livestock in any manner as to obstruct or impede the full use of said streets, sidewalks or alleys.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

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~~Sec. 7-96. Hitching animal to public and private property.~~

~~It shall be unlawful for any person to tether or hitch any animal in or upon the streets or other public places of the Town or upon the private property of other persons without the permission of the property owners.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

~~Sec. 7-97-75. - Cruelty to animals.~~

~~(a) It shall beis unlawful for any person to overdrive, overload, drive when overloaded or overwork any animal, cruelly beat, cruelly mutilate or torture any animal, needlessly shoot at, wound, capture or in any other manner needlessly molest, injure or kill any animal, or carry, transport or keep in a cruel manner any animal, or to cause any of these acts to be done.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

~~(b) Having the charge and custody of any animal, it is unlawful to fail to provide it with proper food, drink or protection from the weather, or abandon it.~~

~~Sec. 7-98-76. - Improper care of animals prohibited.~~

~~(a) It shall beis unlawful for any person owning or keeping an animal to fail to provide it with proper food, drink and protection from the weather, with adequate space consistent with normal requirements and habits of the animal's size, species and breed, or otherwise neglect to provide necessary care of any animal or to cause any of these acts to be done.~~

~~(b) It shall beis unlawful for any person owning or keeping any animal to keep it under conditions where its enclosure is overcrowded, unclean or unhealthy, or to cause any of these conditions. An enclosure is unclean when it contains more than one (1) day's elimination of each animal enclosed therein.~~

~~(c) It shall beis unlawful for any person owning or keeping any animal to fail to provide proper and necessary medical care to said animal when it is injured or in need of said care.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

~~Sec. 7-99. Abandonment of animals.~~

~~It shall be unlawful for any person to abandon any animal or to cause such to be done.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

~~Sec. 7-100-77. - Animal fighting prohibited.~~

~~It shall beis unlawful for a person to keep, cause, sponsor, arrange, hold or encourage a fight between animals for any purpose.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

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**Sec. 7-101. ~~Supply~~6-78. - Limit on number of feed to enclosed animals.**

~~In case any animal or animals shall be at any time enclosed or confined and shall continue to be without necessary food or water more than twelve (12) consecutive hours, it shall be lawful for any person, from time to time and as often as it shall be necessary, to enter into or upon any such enclosure in which any such animal or animals shall be confined and supply it with necessary food and water so long as it shall remain so confined. Such person shall not be liable to any action for such entry, and the reasonable cost of such feed and water may be collected by him or her of the owner of such animal.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

**Sec. 7-102. ~~Poisoning/trapping animals prohibited.~~**

- ~~(a) No person shall poison or distribute poison in any manner with the intent to poison any animal.~~
- ~~(b) No person shall use, set, place, maintain or tend any leg-hold trap. The Animal Control Officer shall confiscate any leg-hold trap found in violation of this Subsection.~~
- ~~(c) No person shall use, set, place, maintain or tend any mechanical trap which is designed or used to capture or kill any animal.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

**Sec. 7-103. ~~Frightening, shooting, killing, trapping, molesting birds.~~**

~~It shall be unlawful for any person at any time within the Town to frighten, shoot at, wound, kill, take, capture, ensnare, net, trap or in any other manner molest or injure any bird or in any manner molest or injure the nest, young or body of any bird.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §I)~~

**Sec. 7-104. ~~Animals prohibited.~~**

- ~~(a) It shall be unlawful for any person to keep, maintain, possess or harbor within the town mules, donkeys, burros, llamas, cattle, sheep, goats, camels, oxen, alpacas, hogs, potbellied pigs, chickens, geese, ducks, guinea fowl, or turkeys.~~
- ~~(b) It shall be unlawful for any person to keep, maintain, possess or harbor within the corporate limits of the Town any living exotic, wild, dangerous or unusual animals including but not limited to poisonous reptiles, cougars, cheetahs, bears, skunks, raccoons, wolves, foxes, coyotes, chimpanzees, orangutans or any bird which has received State or Federal government designation as an endangered species.~~
- ~~(c) Regulations regarding possession of dogs can be found in Article 5 of this Chapter. Regulations regarding possession of horses can be found in Article 6 of this Chapter. Possession of other typical domestic, household animals, such as rabbits, guinea pigs, hamsters, fish, and other similar pets, may be permitted at the discretion of the property owner and in conformance with this Code. Nothing herein will prevent the Town from enforcing the provisions of this Code, including, but not limited to, Article 1—Nuisances and Article 4—Animals.~~

~~(a) It is unlawful for any resident in the Town to have more than the following number of each type of pet unless the residence is licensed as a kennel pursuant to this Code, or unless the maximum number is exceeded by pets of less than six months of age:~~

~~(1) Dogs: four.~~

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(2) Cats: four.

(3) Rabbits: six.

(4) Pot-bellied pigs: three.

(5) Ferrets: three

(6) Reptiles (non-exotic): four.

(7) Hens: six.

(8) Horses: two.

(b) It is unlawful to keep, own, harbor or allow to run free any exotic animal or any livestock of a type not listed above within the Town.

(c) Notwithstanding any other provision of the Green Mountain Falls Municipal Code, use of animals otherwise prohibited may be allowed by special use permit from the Town pursuant to Section 16-710 for commercial purposes, subject to such conditions and restrictions as may be imposed by the Board of Trustees.

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(Ord. 2-1985 §II; Ord. 96-01 §I; Ord. No. 9-1-2015A, § 1, 9-1-2015)

**Sec. 7-105. – Rabbits restrained.**

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It shall be unlawful for any person keeping, maintaining, possessing or harboring within the Town any hares or rabbits to fail to keep the same securely enclosed in a pen or building or to permit the same to run at large or to go on the premises of another.

(Ord. 2-1985 §II; Ord. 96-01 §I)

**Sec. 7-106. – Injured animals.**

In the case of discovering an injured animal, the owner shall be contacted by the Animal Control Officer immediately. If the owner cannot be contacted or is not known, the Animal Control Officer shall take such injured animal to a licensed veterinarian, with the understanding that the release of said injured animal to a veterinarian incurs no financial responsibility on the part of the Town. Said veterinarian shall make the determination to treat the injured animal or, if necessary, to humanely dispose of said animal. Any costs incurred will be the responsibility of the owner, if found.

(Ord. 2-1985 §II; Ord. 96-01 §I)

**Sec. 7-107. – Dead animals.**

When any animal dies in the Town, no person owning or keeping it shall fail to remove the body of such animal from the Town or dispose of it in a lawful and sanitary manner.

(Ord. 2-1985 §II; Ord. 96-01 §I)

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**Sec. 7-108-79. - Removal of animal excrement.**

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The owner, possessor or keeper of any animal that defecates upon public or private property belonging to another shall pick up and remove the feces immediately and properly dispose of such feces ~~in accordance with Health Department regulations.~~ Failure to comply with this Section constitutes a violation of this Code.

(Ord. 2-1985 §II; Ord. 96-01 §I)

#### Sec. ~~7-1096-80.~~ - Noisy animals.

It is unlawful to harbor or keep any animal which disturbs the peace by unreasonable sounds at any time of the day or night.

(Ord. 96-01 §I)

~~Sec. 7-110. - Notice or knowledge of violation of Article not necessary for prosecution of owner.~~

~~For the purpose of prosecution for violations of this Article, it shall not be necessary, in order to obtain a conviction, to prove notice or knowledge on the part of the owner of the animal in question that such animal was violating any of the provisions of this Article at the time and place charged, it being the purpose and intent of this Article to impose strict liability upon the owner of any animal for the actions, conduct and condition of the animal.~~

(Ord. 2-1985 §II; Ord. 96-01 §I)

~~Secs. 7-111 - 7-129~~ ~~§§ 5-101 - 5-103.~~ - Reserved.

### ARTICLE V - Dogs

#### Sec. ~~7-1396-100.~~ - Definitions.

Dog means any domesticated animal of the species *Canis familiaris*, or other species of the family Canidae over three (3) months of age.

(Ord. 96-01 §II)

#### Sec. ~~7-1316-101.~~ - License required.

It is unlawful to own, keep or harbor a dog within the Town unless the same is licensed by securing a license for such dog from the Town Clerk on or before January 31 of each year or within thirty (30) days after the dog reaches the age of three (3) months. Dogs purchased, obtained or otherwise acquired subsequent to January 31 in any calendar year shall be licensed within thirty (30) days after becoming such residents to secure a license hereunder. Said license shall be issued by the Town Clerk upon application stating the name, breed, color and sex of the dog, and name, address and phone number of the owner and upon production of satisfactory evidence that such dog has been inoculated against rabies pursuant to prevailing standards of the Colorado Department of Public Health or other controlling agency, and upon payment of the license fee.

(Ord. 2-1985 §II; Ord. 92-04 §1; Ord. 96-01 §II)

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**Sec. ~~7-1326-102~~, - License fee.**

The annual license fees for dogs within the Town shall be established by resolution of the Board of Trustees.

~~(Ord. 92-04 §1; Ord. 96-01 §II)~~

**Sec. ~~7-1336-103~~, - License tag and collar.**

Upon compliance with Section ~~7-1316-101~~, the Town ~~Clerk~~ shall issue to the owner of the dog a numbered metallic tag, stamped with the number and the year for which issued. Such tag shall be securely fastened to said dog's choke chain, collar or harness and must be worn by the dog at all times.

~~Sec. (Ord. 2-1985 §II; Ord. 96-01 §II)~~

**Sec. ~~7-134~~, - Tag to be worn only by licensed dogs.**

It shall be unlawful for any person to affix to the collar or harness of any dog, or permit to remain so affixed, a tag evidencing licensing and rabies inoculation except the dog tag issued to that dog at the time of issuance of its license or inoculation.

~~(Ord. 2-1985 §II; Ord. 96-01 §II)~~

**Sec. ~~7-135~~, - Records of issuance; duplicated; transfers.**

The Town Clerk shall keep a record of the date of issue of each dog tag provided for in this Article, the person to whom such tag is issued and the number thereof. If said tag is lost or destroyed, a duplicate tag may be obtained from the Town Clerk upon payment of a fee as established by resolution of the Board of Trustees. In the event that the ownership or possession of a dog is changed, a new dog tag must be obtained, and such new dog tag shall be issued by the Town Clerk upon proof being presented that the inoculation and licensing requirements in this Article have been met and upon the payment of a fee as established by resolution of the Board of Trustees.

~~(Ord. 2-1985 §II; Ord. 92-04 §1; Ord. 96-01 §II)~~

**Sec. ~~7-136-6-104~~, - Impoundment generally.**

(a) It shall be lawful for the Animal Control Officer to impound any dog which is not wearing a dog tag as herein provided. It shall be lawful for the Animal Control Officer to impound any dog at large. It shall be lawful for the officer to go upon private property for the purpose of catching any dog to be impounded. The Town shall provide notice of impoundment to the owner of such dog, if the owner is known, or shall cause notice of impoundment to be posted at the Town Marshal's office to be posted for seventy-two (72) hours.

(b) ~~In the event a dog running at large is not impounded or cannot be caught to be impounded and the identity of the owner of such dog is known, the Animal Control Officer or citizen may cite such owner in Municipal Court to answer to charges of code violation.~~

(e)(b) It shall be lawful for the Animal Control Officer to take any impounded animal to the Humane Society of the Pikes Peak Region.

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~~(Ord. 2-1985 §II; Ord. 96-01 §II)~~

~~Sec. 7-137. Filing of complaint against dog owner.~~

~~If a dog is impounded, it shall be the duty of the Animal Control Officer to immediately institute proceedings on behalf of the Town against the owner of such dog, if known, charging the owner with a violation of the appropriate section of this Article. Nothing herein contained shall be construed as preventing the Animal Control Officer or any citizen from instituting proceedings for violation of this Article where there is no impoundment.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §II)~~

~~Sec. 7-138. Notice to owner of dog.~~

~~As soon as practical after the date of impoundment, the Animal Control Officer shall, by regular mail or posting at the owner's address in a conspicuous place, give written notice of such impoundment to the owner of such dog, if the address of such owner is known. If the address cannot be determined, the officer shall cause the notice of impoundment to be posted at the Town Marshal's office for seventy-two (72) hours. Whether the notice herein provided is mailed or posted, it shall describe the dog, set forth, the date of impoundment and set forth location from which the dog was taken up and the impoundment location.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §II)~~

~~Sec. 7-139. Procedure for release of impounded dog.~~

~~(c) An impounded dog shall not be released until all applicable fees and penalties, including rabies inoculation fees, are paid to all agencies involved. If the dog does not have a Town license, said license shall be obtained from the Town Clerk, within seventy-two (72) hours after release.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §II)~~

~~Sec. 7-140. Refusal of owner to retrieve impounded dog.~~

~~(d) The failure or refusal to retrieve any impounded dog by the owner of said animal shall not relieve the person of the duty to pay the impoundment fee and other charges, including medical costs, which have been assessed. It shall be unlawful for the owner of any dog to fail or refuse to pay such fees and charges.~~

~~**Sec. (Ord. 96-01 §II)**~~

~~Sec. 7-141. Disposal of dog whose owner cannot be located.~~

~~If the owner of an impounded dog cannot be found, disposal of said dog shall be accomplished according to procedures set forth by the Humane Society of the Pikes Peak Region.~~

~~(Ord. 2-1985 §II; Ord. 5-1989 §II; Ord. 96-01 §II)~~

~~Sec. 7-142. Redemption fees.~~

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Any owner of an impounded dog shall pay the Town applicable fees as established by resolution of the Board of Trustees, plus any and all license or rabies inoculation fees provided for in this Article, plus any impound fees charged by the Humane Society of the Pikes Peak Region. It shall be unlawful for the owner or any animal to fail or refuse to pay such fees and charges.

(Ord. 2-1985 §II; Ord. 92-04 §1; Ord. 96-01 §II)

~~Sec. 7-143. — Muzzling and confinement of dogs during rabies danger; impoundment of dogs not confined or muzzled.~~

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the Mayor shall have the authority to issue a proclamation ordering every owner of any dog within the Town to confine it securely unless such dog shall have a muzzle of sufficient strength to prevent it from biting any person. It shall be the duty of the Animal Control Officer and all police officers of the Town to take up and impound any dog that may be found during the time so designated by the Mayor as aforesaid, unless muzzled or confined as herein provided.

(Ord. 2-1985 §II; Ord. 96-01 §II)

~~Sec. 7-144-6-105. - Female dogs in heat.~~

Any unspayed female dog, while in heat or suspected of being in heat, shall be securely confined during such period in the owner's yard, pen or other enclosure. Such yard, pen or other enclosure shall be so constructed or situated so as to prevent other dogs from gaining access.

(Ord. 2-1985 §II; Ord. 96-01 §II)

~~Sec. 7-145-6-106. - Vicious dogs.~~

~~It shall be~~ unlawful for any person to own, keep, possess or harbor within the Town a vicious dog, as defined in Section 7-91(4). It shall be the duty of the Animal Control Officer to impound any dog which is vicious. In the event a vicious dog cannot be caught, without the officer exposing himself or herself to danger or personal injury from such dog, it shall be lawful for the officer to forthwith destroy such dog without notice to the owner thereof.

(Ord. 2-1985 §II; Ord. 96-01 §II)

~~Sec. 7-146-6-107. - Confinement of biting dogs.~~

(a) The owner of any dog which has bitten or is suspected of having bitten any person, or which is suspected of having rabies, shall notify the Animal Control Officer.

(b) Any dog which has bitten or is suspected to have bitten any person or which is suspected of having rabies shall be confined upon order of the ~~Animal Control Officer~~ ~~Town~~ for a period of ten (10) days for observation. Such dog shall either be confined at the residence of the owner, if such confinement can be accomplished without exposing such dog to the public or, at the option of the ~~Animal Control Officer~~ ~~Town~~, such dog shall be confined at the Humane Society of the Pikes Peak Region or a private veterinary hospital at the expense of the owner. ~~It shall be~~ unlawful for any owner of such dog to permit such dog during confinement to come into contact with the public.

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Sec. (Ord. 2-1985 §II; Ord. 96-01 §II)

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Sec. 7-147. - Number of dogs allowed per household.

It shall be unlawful to keep, maintain, harbor or possess upon the premises of any one (1) household more than two (2) dogs, except that if any household keeps, maintains or harbors three (3) licensed dogs at the time of passage of this Article (April, 1996), the same three (3) dogs may be maintained upon the premises without being in violation of this Section.

(Ord. 2-1985 §II; Ord. 92-04 §1; Ord. 96-01 §II)

Sec. 7-148. ~~6-108~~. - Barking dogs prohibited.

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No person owning or keeping a dog shall fail to prevent such dog from disturbing the peace and quiet of any other person within the Town by loud, and/or persistent barking, baying, howling, fighting, yiping, crying, yelping or whining, whether the animal is on or off the owner's or keeper's premises.

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Sec. (Ord. 94-03 §I; Ord. 96-01 §II)

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Sec. 7-149. - Barking dog; warning required.

(a) ~~No~~6-109. - Penalty.

Any person who shall be charged with convicted of a violation of any Section 7-148 unless a written warning has been given hereunder shall be punished pursuant to the dog owner Section 1-42 of this Code. The Town may institute injunction, abatement or the person keeping the dog by the Animal Control Officer within the twelve-month period immediately preceding the date of the alleged any other appropriate action to prevent, enjoin, abate or remove any violation.

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(b) The Animal Control Officer shall issue a written warning after receiving a complaint, investigating the complaint of this chapter in which event the Town shall be entitled to recover court costs and determining attorney fees. Each day that the peace and quiet of the complainant has been disturbed. Complainants must make a written complaint when reporting an alleged such violation including name, address and telephone number and must sign the complaint.

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(c) A warning is sufficient if it recites Section 7-148 and states that a written complaint has been received that a dog owned by said person or being kept by said person is disturbing the peace of an individual.

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(d) A warning is given under this is committed or permitted to continue shall constitute a separate offense subject to the penalties provided for in Section if it is personally given to the person owning or keeping the dog or if it is mailed first class to such person. The Marshal's Department shall keep all records of warnings given, and such records are prima facie evidence that such warnings were given. 6-13.

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(Ord. 94-03 §II; Ord. 96-01 §II)

Sec. 7-150. ~~Penalty.~~

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The penalty fines for violations existing within this Section shall be established by resolution of the Board of Trustees.

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(Ord. 94-03 §IV; Ord. 96-01 §II)

~~Secs. 7-151 - 7-160; 7-110 - 6-120; - Reserved.~~

## ARTICLE VI - Horses

### Sec. ~~7-161-121~~, - Property size requirements.

Within the Town, horses shall be kept on property which is two and one-half (2 ½) acres or larger in size, provided that said animals are fenced back from the property line a minimum of ten (10) feet and that all other applicable requirements herein provided are satisfied, except for any horse with a permit issued prior to the passage of this Article (April 1996).

(Ord. 2-1985 §II; Ord. 96-01 §III)

### Sec. ~~7-162-122~~, - Enclosures.

Horses shall be kept in a suitable fenced enclosure, corral or pen in which said animals shall be restrained, providing a minimum area of one thousand five hundred (1,500) square feet per animal. Said enclosure, corral or pen or any shelter, shed, stable or barn in which horses are housed shall be located a minimum distance of seventy-five (75) feet from any neighboring house, dwelling or place of business.

(Ord. 2-1985 §II; Ord. 96-01 §III)

### Sec. ~~7-163~~, - Sanitation.

~~The premises upon which horses are kept shall be maintained in a clean and sanitary condition. Manure or excrement and straw or bedding shall be removed from enclosures, corrals, pens, shelters, stables or barns on a regular basis and shall be temporarily stored at the farthest possible and reasonable point upon the property from any house, dwelling, place of business or natural water course. Said manure or excrement and straw or bedding shall be removed from Town at least once every week. It is the responsibility of the owner of the horses to take whatever actions may be necessary to insure that the premises upon which said animals are kept do not become a hazard to public health or welfare due to excessive flies, vermin or odor. Said premises shall be subject to inspection by the Animal Control Officer.~~

(Ord. 2-1985 §II; Ord. 96-01 §III)

### Sec. ~~7-164-123~~, - Permit required; fee.

A permit shall be required for an individual household to keep horses within the Town. Upon receiving an application for said permit, the Town ~~Clerk~~ shall request the Animal Control Officer to inspect the proposed premises to determine if the requirements provided in this Article are satisfied by the applicant. If said requirements are satisfied, a permit shall be issued for one (1) calendar year, expiring on January 31 of each year, for which a fee as established by resolution of the Board of Trustees shall be charged. The permit is not transferable and shall be issued only for the horse listed in the application procedure. If, at any time the premises upon which horses are kept fail to satisfy the requirements of this Article, said permit may be revoked by the Board of Trustees.

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~~Sec. 7-165. - Number of horses per household.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §III)~~

~~Sec. 7-166. Stable, commercial.~~

~~(Ord. 2-1985 §II; Ord. 96-01 §III)~~

## ARTICLE VII - Wildlife

(b) Bird feeders are allowed. However, between the dates of April 1 and the last day of November, all feeders must be suspended on a cable or other device so that they are inaccessible to bears and other large mammals. In addition, the area below the feeders must be kept free from the accumulation of debris.

~~(Ord. 02-2004 §III)~~

~~The penalty fines for violations existing within this Article shall be established by resolution of the Board of Trustees.~~

~~(Ord. 02-2004 §III)~~

Any person who shall be convicted of a violation of any Section hereunder shall be punished pursuant to Section 1-42 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this chapter in which event the Town shall be entitled to recover court costs and attorney fees. Each day that such violation is committed or permitted to continue shall constitute a separate offense subject to the penalties provided for in Section 7-9.

## ARTICLE VIII - Trees

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**Sec. ~~7-2016-146~~, - Purpose.**

The purpose of this Article is:

- (1) To provide for the abatement of nuisance trees on public and private property and to develop a healthy urban forest and park system of diverse tree species to protect against potential pest and disease problems.
- (2) To encourage effective management of said forest through public education on mitigation of wildfire hazards; encourage the creation of defensible space around property structures; and maintain public education towards the goal of a healthy, urban forest in order to maintain the natural beauty of the Town.

~~(Ord. 03-2006 §1)~~

**Sec. ~~7-2026-147~~, - Definitions.**

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given in this Section:

*Infestation control* shall mean the process defined herein whereby infested trees may be cut, as per recognized Colorado State Forest Service procedures and policies.

*Insect infestation* shall mean trees which are infested with mountain pine beetles, Douglas fir beetles, the ips beetle, western spruce budworm or other pestilence, such as dwarf mistletoe, which endangers the well-being of trees.

*Nuisance trees* are defined as trees which pose a threat to public safety or adjacent public property, including but not limited to public rights-of-ways or trees which harbor any destructive or communicable disease or other pestilence which endangers the well-being of other trees in the Town or which are capable of causing an epidemic spread of insect infestation.

*Private trees* means any and all trees growing on private property within the Town limits after the effective date of the ordinance from which this section or successor sections derives and which are not defined or designated in this Article as public trees.

*Public right-of-way* means a portion of property reserved for public use and accepted for such use by the Town to provide circulation and travel to abutting properties, including but not limited to streets, alleys, sidewalks, provisions for public utilities, cut-and-fill slopes and open public spaces.

*Public trees* means all trees growing on any public rights-of-way or any public property owned by the Town on or after the effective date of the ordinance codified in this Article or its successor ordinances. This does not include public utility easements.

*Public utility easement* means a portion of land designated for any public, private or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water or stormwater, which directly or indirectly serves the public or any part thereof within the corporate limits of the Town.

*Tree topping* means the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

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~~(Ord. 03-2006 §1)~~

**Sec. 7-203. Applicability.**

~~The Board of Trustees shall have exclusive power and authority over all trees, plants and shrubs located within public rights-of-way and public property of the Town, and over trees, plants and shrubs located on private property that constitute a nuisance as described herein.~~

~~(Ord. 03-2006 §1)~~

**Sec. 7-204. Administration.**

~~The Town Clerk is hereby appointed to administer and implement this Article. The Town Clerk is authorized to investigate any place within the Town which reasonably appears to be in violation of the provisions of this Chapter, including the right to enter upon any premises at any reasonable time to make an inspection for the purpose of enforcing this Article.~~

~~(Ord. 03-2006 §1)~~

**Sec. 7-205-148. - Trees on public property.**

~~(a) Except as provided herein, it shall be unlawful for any person to engage in tree topping in or upon public rights-of-way or other public property within the Town. Trees severely damaged by storms or other causes, or trees which pose an imminent threat to property or to public safety such that other pruning practices are impractical, may be exempted from this Section at the discretion of the Town Clerk. No tree on public property shall be pruned, transplanted, or removed without written permission from the Town Clerk.~~

~~(Ord. 03-2006 §1)~~

~~(b) Any tree located on Town property in the immediate vicinity of any excavation, demolition or construction site of any building, structure or utilities work, which has potential for injury, shall be protected from such injury utilizing procedures recommended by the Colorado State Forest Service or recognized natural resource professional.~~

**Sec. 7-206-149. - Control of nuisance trees, private property.**

~~(a) Duty to trim trees. The owner, agent, manager, lessee, tenant or occupant of any lot or tract of land shall remove or otherwise control any nuisance tree as defined herein, located on such property.~~

~~(b) Upon the discovery of a nuisance tree, the Town Clerk shall cause written notice of violation to be served, either personally or by certified mail, to the record owner of the property or to his or her agent, manager, tenant, lessee or occupant of the premises. Such notice of violation shall state the date issued, the name of the person to whom the notice is issued, the address of the property, the violation involved and a time limit of fifteen (15) days given to remove or correct the cause of such violation, and be signed by the issuing official of the Town. If the person to be served cannot be determined or located within a reasonable period of time, not to exceed fifteen (15) days, or if a notice which has been mailed is returned undelivered, the Town Clerk shall cause the property where the violation of this Article is located to be~~

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~~posted in a conspicuous place visible from an adjacent public right-of-way. Such sign shall be posted for a minimum of five (5) days, after which time the notice requirements of this Section shall be deemed complete.~~

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(c) If, after fifteen (15) days from the date of issuance of the notice of violation of this Article, the violation has not been corrected, a summons and complaint may be issued to the person named in the notice of violation unless satisfactory arrangements for an extension of time have been made with the Town Clerk. Upon the failure to cut, remove and/or remediate any tree being maintained in violation of this Article, the Town is hereby authorized to cause the cutting, removal and/or remediation of such tree at the owner's cost in addition to an administrative expense and penalty provided for violation of this Article.

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Sec. (d) ~~Upon the failure or refusal of the record owner, agent, manager, tenant, lessee or occupant to cut, remove and/or remediate any tree being maintained in violation of this Article, the Town Clerk is hereby authorized to enter such property, after giving proper notice as required herein, and to cause the cutting, removal and/or remediation of such tree. The cost of cutting, removal and/or remediation, plus an administrative expense in an amount as may be established by resolution of the Town, shall be collected from the record owner of such property, in addition to the penalty provided for violation of this Article.~~

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(e) ~~In the event the record owner or agent of the owner of such property fails to pay such costs of cutting, removal and/or remediation of such trees, together with the administrative expense established pursuant to this Article, within thirty (30) days after billing, a lien may be assessed against the property for such costs. The lien thereby created shall be superior and prior to other liens regardless of date, except for liens for general property taxes and special assessments. The Town Clerk shall certify to the County Treasurer the assessments which are not paid within thirty (30) days after billing. Ten percent (10%) of the amount shall be added to the assessments to pay the cost of collection.~~

~~(Ord. 03-2006 §1)~~

#### ~~Sec. 7-207. Control of nuisance trees, public property.~~

~~The Town Clerk is directed by the Board of Trustees, and upon review of the budget for such activity, to take appropriate action to remediate nuisance trees located on public property by causing the same to be removed, or by taking other remedial action as recommended by the Colorado State Forest Service or recognized natural resource professional.~~

~~(Ord. 03-2006 §1)~~

#### ~~Sec. 7-208. Abuse or mutilation of public trees.~~

~~It is unlawful for any person to prune, transplant or remove any tree on public property without obtaining approval from the Town Clerk.~~

~~(Ord. 03-2006 §1)~~

#### ~~Sec. 7-209. Protection of public trees near construction activities.~~

~~Any tree located on Town property in the immediate vicinity of any excavation, demolition or construction site of any building, structure or utilities work, which has potential for injury, shall be protected from such injury utilizing procedures recommended by the Colorado State Forest Service or recognized natural resource professional.~~

~~(Ord. 03-2006 §1)~~

~~Sec. 7-210.6-150.~~ **- Penalty.**

Persons who fail to comply with any notice issued pursuant to any provision of this Article and convicted of a violation of provisions within this Code shall be subject to a fine. In addition, the Municipal Judge may order the defendant to remove the diseased or nuisance trees within a specified period of time. The penalty fines for violations existing within this Section shall be established by resolution of the Board of Trustees.

~~(Ord. 03-2006 §1)~~

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## **CHAPTER 7 - Health, Sanitation and Animals**

### **ARTICLE I - Nuisances**

#### **Sec. 6-1. - Declaration of nuisances.**

Any thing or activity which unreasonably annoys or interferes with the use or enjoyment of public or private property or which constitutes a health or safety hazard, anything that violates the provisions of this Code, or anything declared to be a nuisance by Town ordinance or by statutes or regulations of the State shall be abated in accordance with the provisions contained herein and, in addition, subject to the penalties provided for in Section 6-13.

#### **Sec. 6-2. - Right of entry.**

(a) Whenever the Town has reasonable cause to believe a nuisance exists, an authorized representative of the Town may enter upon or into any lot or upon any property, building or premises, with the owner's or occupant's permission, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action or liability on account thereof. If permission is denied, the Town shall obtain an order by the Municipal Judge or from a court of competent jurisdiction authorizing entry.

(b) Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, the Town may enter into any building or upon any premises, using such reasonable force as may be necessary. An emergency situation includes any situation of imminent danger of loss of, or injury or damage to, life, limb or property, or threat to public safety. It is unlawful for any owner or the owner's agent, manager, lessee or occupant of the building or premises to deny entry to any officer or to resist reasonable force used by any officer acting pursuant to this Chapter.

#### **Sec. 6-3. - Notice of violation and abatement.**

(a) If, after investigation, the Town has reason to believe that a lot or parcel of land is being maintained in violation of this Chapter, the Town has the discretion to issue a verbal warning or a written notice of violation. A written notice shall either be served personally or be sent by first-class mail to the owner or the owner's agent, manager, lessee or occupant of the property. If the written notice is sent by mail, the Town shall also cause the property where the violation of this Chapter is located to be posted in a conspicuous place visible from an adjacent public right-of-way. Such notice of violation shall state the date issued, the name of the person to whom the notice is issued, the address of the property, the violations cited and set a date by which the owner must abate the violation and be signed by the issuing officer.

(b) Upon the failure, neglect or refusal of the owner or the owner's agent, manager, lessee or occupant of the property to remedy the circumstance being maintained in violation of this Chapter, the Town is hereby authorized to enter such property, after giving proper notice of violation as set forth in this Chapter, and to remedy the cited violation. The cost of such abatement plus an administrative fee shall be collected from the record owner of such property and shall apply independently and in addition to the penalty provided for the violation of this Chapter.

(c) In the event the owner or the owner's agent, manager, lessee or occupant of such property fails to pay such costs of abatement within thirty (30) days after billing, a lien may be assessed against the property for such costs. The lien hereby created shall be superior and prior to other

liens regardless of date, except for liens for general property taxes and special assessments. The Town Clerk shall certify to the County Treasurer the assessments which are not paid within thirty (30) days after billing. Ten percent (10%) of the amount shall be added to the assessments to pay the cost of collection.

(d) In case of any such nuisance in or upon any street, alley, sidewalk, highway or public grounds in the Town, the Town may abate the same forthwith without such notice being given.

(e) nothing set forth in this chapter shall be considered to be a prerequisite for commencing an action for such violation in municipal court.

#### **Sec. 6-4. - Junkyards and dumping grounds.**

All places used or maintained as junkyards or dumping grounds for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats, housetrailer or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors, builders or other persons are hereby declared to be a nuisance.

#### **Sec. 6-5. - Discharge of nauseous liquids.**

It is unlawful to discharge out of or from or permit to flow, from any house or place, foul or nauseous liquids or substances of any kind whatsoever into or upon any adjacent ground or lot or into any street, alley or public place in the Town.

#### **Sec. 6-6. - Stale matter.**

It is unlawful to keep, collect or use or cause to be kept, collected or used in the Town any stale, putrid or stinking fat, grease or compost for a nonhousehold use and in a manner which threatens the health and welfare of the Town.

#### **Sec. 6-7. - Sewer inlet.**

It is unlawful to deposit in or throw into any sewer, sewer inlet or privy vault that shall have a sewer connection any article whatsoever that might cause such sewer, sewer inlet or privy vault to become nauseous or offensive to others or injurious to public health.

#### **Sec. 6-8. - Dead animals; removal.**

When any animal shall die in this Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith beyond the limits of the Town. If such body shall not forthwith be removed, the same shall be deemed a nuisance and such owner or keeper shall cause a nuisance to exist. When the body of any such dead animal shall be in any street, highway or public grounds in this Town, it shall be the duty of the Town to cause such body to be removed forthwith beyond the limits of the Town.

#### **Sec. 6-9. - Stagnant ponds.**

Any cellar, vault, drain, sewer, pond of water or other place upon or within any private premises or grounds in the Town that shall be nauseous or offensive to others or injurious to public health through an accumulation or deposition of nauseous, offensive or foul water or other substances, shall be deemed a nuisance. This applies in all cases for which no other specific provisions are made in this Article or any other ordinance of the Town.

#### **Sec. 6-10. - Open wells, cisterns or excavations.**

It is hereby declared that excavations exceeding five (5) feet in depth, cisterns and wells or an excavation used for storage of water are public nuisances unless the same are adequately covered with a locked lid or other covering weighing at least sixty (60) pounds or are securely fenced with a solid fence to a height of at least five (5) feet, and it is unlawful for any person to permit such nuisance to remain on the premises owned or occupied by him or her.

#### **Sec. 6-11. - Handbills, posters and placards.**

Any handbill, poster, placard or painted or printed matter which shall be stuck, posted or passed upon any public or private house, store 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 house, shall be deemed a nuisance and may be abated as provided in this Chapter.

#### **Sec. 6-12. - Prohibiting discharge of sewage, effluent or contaminated matter**

- (a) It is unlawful to discharge or to permit or suffer the discharge of sewage, effluent or matter contaminated by sewage or effluent, either upon the surface of the ground or into any creek or waterway within the Town.
- (b) The owners of any property where people live, work or congregate shall provide an adequate sewage disposal system in good working order and constructed, installed and maintained in accordance with rules adopted pursuant to Section 25-10-106, C.R.S., and this Article.
- (c) The Town shall have the authority to have a malfunctioning sewage disposal system pumped or repaired, with the expense to be charged to the property owner.

#### **Sec. 6-13. - Penalty.**

Whenever, in any Section of this Article or any regulation promulgated hereunder, the doing of any act is required, prohibited or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, any person who shall be convicted of a violation of any such Section shall be punished pursuant to Section 1-42 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this chapter in which event the Town shall be entitled to recover court costs and attorney fees. Each day that such violation is committed or permitted to continue shall constitute a separate offense.

**Secs. 6-14—6-30. - Reserved.**

### **ARTICLE II - Refuse**

#### **Sec. 6-31. - Definitions.**

For the purposes of this Article, the following terms shall have the meanings indicated:

*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, metal binding, sacks, loose, discarded or unused material, yard waste, tree waste, biological or non-biological waste, 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 any trash can, dumpster or similar device used for the collection and storage of solid waste or recyclable material with food or the scent of food.

*Wildlife* means any nondomesticated mammal indigenous to the Ute Pass area, including but not limited to bear, deer, elk, raccoon, coyote, fox, skunk, bobcat, mountain lion and porcupine.

*Wildlife-proof enclosure* means a fully enclosed structure capable of keeping wildlife out. The door shall have a latching device of sufficient design and strength to prevent access by wildlife.

*Wildlife-resistant refuse container* means a fully enclosed rigid container with a rigid lid. The lid must have a latching mechanism, which limits access to the contents by wildlife. Plastic bags are not wildlife-resistant refuse containers.

#### **Sec. 6-32. - Accumulation and deposit of refuse; prohibited and declared nuisance.**

(a) Any accumulation of refuse or deposit of any refuse, including yard and tree waste, other than in closed containers, on any premises, improved or unimproved, in the Town is prohibited and is hereby declared to be a nuisance. No person shall in any manner throw, place, scatter, deposit or bury, or set on fire or burn any refuse or other combustible materials, deposit refuse or waste materials or ashes in or upon any public street, alley or other public place or upon his or her own premises or the premises of another.

(b) All refuse shall be removed periodically from all premises in the Town so that the premises are clean and orderly at all times. All loose, discarded or unused building material from construction sites shall be promptly removed or discarded by the person responsible for such work. Any accumulation of refuse that is highly explosive or inflammable which might endanger life or property shall be removed to such places as approved by the Town or the Fire Chief, such removal to be handled by the establishments responsible therefor.

#### **Sec. 6-33. - Wildlife-resistant refuse containers or enclosures required.**

Except for a container which has a minimum of seven (7) days per week pickup, any refuse container, regardless of size, including construction site containers that receives, between the dates of April 1 and the last day of November, inclusive, refuse which is edible by bears or other wildlife, shall be kept closed and secure in either:

- (1) An approved wildlife-proof enclosure or;
- (2) A wildlife-resistant refuse container which is stored within a building, house, garage or approved wildlife-proof enclosure.

If a container or enclosure is damaged, allowing access by wildlife, repairs must be made within one (1) week after written notification by the Marshal's office or Town is received.

#### **Sec. 6-34. - Residential refuse disposal.**

(a) Residents with curbside pickup shall place their refuse containers outside only on the morning of pickup. After pickup, the containers must be stored inside the home, garage or wildlife-proof enclosure by 9:00 p.m.

(b) Plastic bags are not considered an acceptable container for refuse edible by wildlife.

#### **Sec. 6-35. - Special event refuse disposal.**

Outdoor special event sites shall be kept free from the accumulation of refuse edible by wildlife. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited in wildlife-proof enclosures or be removed to an appropriate disposal site.

#### **Sec. 6-36. - Penalty.**

Any person who shall be convicted of a violation of any Section hereunder shall be punished pursuant to Section 1-42 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this chapter in which event the Town shall be entitled to recover court costs and attorney fees. Each day that such violation is committed or permitted to continue shall constitute a separate offense subject to the penalties provided for in Section 6-13.

**Secs. 6-37—6-50. - Reserved.**

### **ARTICLE III - Weeds and Brush**

#### **Sec. 6-51. - Definitions.**

For the purpose of this Article, the following words and phrases shall have the following meanings, unless the context indicates otherwise:

- (1) *Brush* means any unsightly, useless, troublesome or injurious volunteer growth of bushes or shrubbery, which shall include all cuttings from said bushes and shrubbery.
- (2) *Weed* means any unsightly, useless, troublesome or injurious herbaceous plant including, but not limited to, those undesirable plants commonly known as leafy spurge, diffuse knapweed, Russian knapweed and spotted knapweed.

#### **Sec. 6-52. - Declaration of nuisance and removal.**

- (a) Any weeds or brush found growing in any lot or tract of land in the Town is hereby declared to be a nuisance, and it is unlawful to permit any such weeds or brush to grow or remain in any such place.
- (b) It shall be the duty of each and every person owning, occupying or possessing any lots, tracts or parcels of land within the Town to cut to the ground all weeds and brush when said weeds and brush grow to a height of twelve (12) inches or more
- (c) All weeds and brush cut in accordance with Section 7-74 hereof shall, immediately upon being cut, be removed from the Town or otherwise entirely destroyed by the owner of the lot upon which the weeds and brush have been cut.

**Secs. 6-53—6-70. - Reserved.**

### **ARTICLE IV - Animals**

#### **Sec. 6-71. - Definitions.**

Whenever in this Chapter the words hereinafter defined or construed in this Section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

(1) *Animal Control Officer* means the person, persons, firm, club, association, partnership, society, corporation or other organization employed or appointed by the Town to carry out and enforce the provisions of this Article.

(2) *At large* means:

Off the premises of the owner, other than on or within a vehicle, and not under the control of the owner or a member of his or her immediate family or other competent, responsible and/or authorized person by means of a restraining device which keeps the animal within ten (10) feet of the controlling party; or

(3) *Exotic Animal* means an animal that is not a household pet or livestock, is wild in nature and may or may not have the ability to inflict bodily harm on humans, including, without limitation, snakes in excess of four feet in length.

(4) *Owner* means any person or persons, firm, association, club, corporation, partnership, society or any other organization owning, keeping, possessing or harboring animals, or designated in such capacity by the owner as hereinafter set forth.

(5) *Vicious animal* means any animal that, unprovoked, bites or attacks persons or other animals, either on public or private property, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks or any public ground or place.

#### **Sec. 6-72. - Running at large prohibited.**

It is unlawful for any owner of any animal to permit the same to run at large within the Town.

#### **Sec. 6-73. - Impoundment of animals running at large; costs.**

If any animal shall be found running at large, may be impounded and shall not be released until any and all applicable charges are paid.

#### **Sec. 6-74. - Disposition and/or adoption of impounded animals.**

If the owner or person entitled to the possession of an animal does not pay any and all applicable charges and claim the animal within three (3) calendar days of the date of impoundment, the policies and procedures of the Humane Society of the Pikes Peak Region for disposition, including placement for adoption will be followed.

#### **Sec. 6-75. - Cruelty to animals.**

(a) It is unlawful for any person to overdrive, overload, drive when overloaded or overwork any animal, cruelly beat, cruelly mutilate or torture any animal, needlessly shoot at, wound, capture or in any other manner needlessly molest, injure or kill any animal, or carry, transport or keep in a cruel manner any animal, or to cause any of these acts to be done.

(b) Having the charge and custody of any animal, it is unlawful to fail to provide it with proper food, drink or protection from the weather, or abandon it.

#### **Sec. 6-76. - Improper care of animals prohibited.**



- (a) It is unlawful for any person owning or keeping an animal to fail to provide it with adequate space consistent with normal requirements and habits of the animal's size, species and breed, or otherwise neglect to provide necessary care of any animal or to cause any of these acts to be done.
- (b) It is unlawful for any person owning or keeping any animal to keep it under conditions where its enclosure is overcrowded, unclean or unhealthy, or to cause any of these conditions. An enclosure is unclean when it contains more than one (1) day's elimination of each animal enclosed therein.
- (c) It is unlawful for any person owning or keeping any animal to fail to provide proper and necessary medical care to said animal when it is injured or in need of said care.

**Sec. 6-77. - Animal fighting prohibited.**

It is unlawful for a person to keep, cause, sponsor, arrange, hold or encourage a fight between animals for any purpose.

**Sec. 6-78. - Limit on number of animals.**

(a) It is unlawful for any resident in the Town to have more than the following number of each type of pet unless the residence is licensed as a kennel pursuant to this Code, or unless the maximum number is exceeded by pets of less than six months of age:

- (1) Dogs: four.
- (2) Cats: four.
- (3) Rabbits: six.
- (4) Pot-bellied pigs: three.
- (5) Ferrets: three
- (6) Reptiles (non-exotic): four.
- (7) Hens: six.
- (8) Roosters: zero/one
- (9) Horses: two.

(b) It is unlawful to keep, own, harbor or allow to run free any exotic animal or any livestock of a type not listed above within the Town.

(c) Notwithstanding any other provision of the Green Mountain Falls Municipal Code, use of animals otherwise prohibited may be allowed by special use permit from the Town pursuant to Section 16-710 for commercial purposes, subject to such conditions and restrictions as may be imposed by the Board of Trustees.

**Sec. 6-79. - Removal of animal excrement.**

The owner, possessor or keeper of any animal that defecates upon public or private property belonging to another shall pick up and remove the feces immediately and properly dispose of such feces. Failure to comply with this Section constitutes a violation of this Code.

**Sec. 6-80. - Noisy animals.**

It is unlawful to harbor or keep any animal which disturbs the peace by unreasonable sounds at any time of the day or night.

**Secs. 6-81—6-100. - Reserved.**

**ARTICLE V - Dogs**

**Sec. 6-100. - Definitions.**

*Dog* means any domesticated animal of the species *Canis familiaris*, or other species of the family *Canidae* over three (3) months of age.

**Sec. 6-101. - License required.**

It is unlawful to own, keep or harbor a dog within the Town unless the same is licensed by securing a license for such dog from the Town on or before January 31 of each year or within thirty (30) days after the dog reaches the age of three (3) months. Dogs purchased, obtained or otherwise acquired subsequent to January 31 in any calendar year shall be licensed within thirty (30) days after becoming such residents to secure a license hereunder. Said license shall be issued by the Town upon application stating the name, breed, color and sex of the dog, and name, address and phone number of the owner and upon production of satisfactory evidence that such dog has been inoculated against rabies pursuant to prevailing standards of the Colorado Department of Public Health or other controlling agency, and upon payment of the license fee.

**Sec. 6-102. - License fee.**

The annual license fees for dogs within the Town shall be established by resolution of the Board of Trustees.

**Sec. 6-103. - License tag and collar.**

Upon compliance with Section 6-101, the Town shall issue to the owner of the dog a numbered metallic tag, stamped with the number and the year for which issued. Such tag shall be securely fastened to said dog's choke chain, collar or harness and must be worn by the dog at all times.

**Sec. 6-104. - Impoundment generally.**

(a) It shall be lawful for the Animal Control Officer to impound any dog which is not wearing a dog tag as herein provided. It shall be lawful for the Animal Control Officer to impound any dog at large. It shall be lawful for the officer to go upon private property for the purpose of catching any dog to be impounded. The Town shall provide notice of impoundment to the owner of such dog, if the owner is known, or shall cause notice of impoundment to be posted at the Town Marshal's office to be posted for seventy-two (72) hours.

(b) It shall be lawful for the Animal Control Officer to take any impounded animal to the Humane Society of the Pikes Peak Region.

(c) An impounded dog shall not be released until all applicable fees and penalties, including rabies inoculation fees, are paid to all agencies involved. If the dog does not have a Town license, said license shall be obtained from the Town within seventy-two (72) hours after release.

(d) The failure or refusal to retrieve any impounded dog by the owner of said animal shall not relieve the person of the duty to pay the impoundment fee and other charges, including medical costs, which have been assessed. It is unlawful for the owner of any dog to fail or refuse to pay such fees and charges.

#### **Sec. 6-105. - Female dogs in heat.**

Any unspayed female dog, while in heat or suspected of being in heat, shall be securely confined during such period in the owner's yard, pen or other enclosure. Such yard, pen or other enclosure shall be so constructed or situated so as to prevent other dogs from gaining access.

#### **Sec. 6-106. - Vicious dogs.**

It is unlawful for any person to own, keep, possess or harbor within the Town a vicious dog, as defined in Section 7-91(4). It shall be the duty of the Animal Control Officer to impound any dog which is vicious. In the event a vicious dog cannot be caught, without the officer exposing himself or herself to danger or personal injury from such dog, it shall be lawful for the officer to forthwith destroy such dog without notice to the owner thereof.

#### **Sec. 6-107. - Confinement of biting dogs.**

(a) The owner of any dog which has bitten or is suspected of having bitten any person, or which is suspected of having rabies, shall notify the Animal Control Officer.

(b) Any dog which has bitten or is suspected to have bitten any person or which is suspected of having rabies shall be confined upon order of the Town for a period of ten (10) days for observation. Such dog shall either be confined at the residence of the owner, if such confinement can be accomplished without exposing such dog to the public or, at the option of the Town, such dog shall be confined at the Humane Society of the Pikes Peak Region or a private veterinary hospital at the expense of the owner. It is unlawful for any owner of such dog to permit such dog during confinement to come into contact with the public.

#### **Sec. 6-108. - Barking dogs prohibited.**

No person owning or keeping a dog shall fail to prevent such dog from disturbing the peace and quiet of any other person within the Town by loud, and/or persistent barking, baying, howling, fighting, yiping, crying, yelping or whining, whether the animal is on or off the owner's or keeper's premises.

#### **Sec. 6-109. - Penalty.**

Any person who shall be convicted of a violation of any Section hereunder shall be punished pursuant to Section 1-42 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this chapter in which event the Town shall be entitled to recover court costs and attorney fees. Each day that such violation is committed or permitted to continue shall constitute a separate offense subject to the penalties provided for in Section 6-13.

**Secs. 6-110—6-120. - Reserved.**

## **ARTICLE VI - Horses**

### **Sec. 6-121. - Property size requirements.**

Within the Town, horses shall be kept on property which is two and one-half (2 ½) acres or larger in size, provided that said animals are fenced back from the property line a minimum of ten (10) feet and that all other applicable requirements herein provided are satisfied, except for any horse with a permit issued prior to the passage of this Article (April 1996).

### **Sec. 6-122. - Enclosures.**

Horses shall be kept in a suitable fenced enclosure, corral or pen in which said animals shall be restrained, providing a minimum area of one thousand five hundred (1,500) square feet per animal. Said enclosure, corral or pen or any shelter, shed, stable or barn in which horses are housed shall be located a minimum distance of seventy-five (75) feet from any neighboring house, dwelling or place of business.

### **Sec. 6-123. - Permit required; fee.**

A permit shall be required for an individual household to keep horses within the Town. Upon receiving an application for said permit, the Town shall request the Animal Control Officer to inspect the proposed premises to determine if the requirements provided in this Article are satisfied by the applicant. If said requirements are satisfied, a permit shall be issued for one (1) calendar year, expiring on January 31 of each year, for which a fee as established by resolution of the Board of Trustees shall be charged. The permit is not transferable and shall be issued only for the horse listed in the application procedure. If, at any time the premises upon which horses are kept fail to satisfy the requirements of this Article, said permit may be revoked by the Board of Trustees

**Secs. 6-124—6-135. - Reserved.**

## **ARTICLE VII - Wildlife**

### **Sec. 6-136. - Feeding of wildlife.**

(a) No person shall knowingly leave or store any refuse, food product, pet food, grain or salt in a manner which would constitute a lure to, attraction to or enticement of wildlife.

(b) Bird feeders are allowed. However, between the dates of April 1 and the last day of November, all feeders must be suspended on a cable or other device so that they are inaccessible to bears and other large mammals. In addition, the area below the feeders must be kept free from the accumulation of debris.

### **Sec. 6-137. - Penalty.**

Any person who shall be convicted of a violation of any Section hereunder shall be punished pursuant to Section 1-42 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this chapter in which event the Town shall be entitled to recover court costs and attorney fees. Each day that such violation is

committed or permitted to continue shall constitute a separate offense subject to the penalties provided for in Section 7-9.

**Secs. 6-138—6-145. - Reserved**

## **ARTICLE VIII - Trees**

### **Sec. 6-146. - Purpose.**

The purpose of this Article is:

- (1) To provide for the abatement of nuisance trees on public and private property and to develop a healthy urban forest and park system of diverse tree species to protect against potential pest and disease problems.
- (2) To encourage effective management of said forest through public education on mitigation of wildfire hazards; encourage the creation of defensible space around property structures; and maintain public education towards the goal of a healthy, urban forest in order to maintain the natural beauty of the Town.

### **Sec. 6-147. - Definitions.**

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given in this Section:

*Infestation control* shall mean the process defined herein whereby infested trees may be cut, as per recognized Colorado State Forest Service procedures and policies.

*Insect infestation* shall mean trees which are infested with mountain pine beetles, Douglas fir beetles, the ips beetle, western spruce budworm or other pestilence, such as dwarf mistletoe, which endangers the well-being of trees.

*Nuisance trees* are defined as trees which pose a threat to public safety or adjacent public property, including but not limited to public rights-of-ways or trees which pose a fire hazard, harbor any destructive or communicable disease or other pestilence which endangers the well-being of other trees in the Town or which are capable of causing an epidemic spread of insect infestation.

*Private trees* means any and all trees growing on private property within the Town limits after the effective date of the ordinance from which this section or successor sections derives and which are not defined or designated in this Article as public trees.

*Public right-of-way* means a portion of property reserved for public use and accepted for such use by the Town to provide circulation and travel to abutting properties, including but not limited to streets, alleys, sidewalks, provisions for public utilities, cut-and-fill slopes and open public spaces.

*Public trees* means all trees growing on any public rights-of-way or any public property owned by the Town on or after the effective date of the ordinance codified in this Article or its successor ordinances. This does not include public utility easements.

*Public utility easement* means a portion of land designated for any public, private or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water or stormwater, which directly or indirectly serves the public or any part thereof within the corporate limits of the Town.

*Tree topping* means the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

**Sec. 6-148. - Trees on public property.**

(a) Except as provided herein, it is unlawful for any person to engage in tree topping in or upon public rights-of-way or other public property within the Town. Trees severely damaged by storms or other causes, or trees which pose an imminent threat to property or to public safety such that other pruning practices are impractical, may be exempted from this Section at the discretion of the Town. No tree on public property shall be pruned, transplanted, or removed without written permission from the Town.

(b) Any tree located on Town property in the immediate vicinity of any excavation, demolition or construction site of any building, structure or utilities work, which has potential for injury, shall be protected from such injury utilizing procedures recommended by the Colorado State Forest Service or recognized natural resource professional.

**Sec. 6-149. - Control of nuisance trees, private property.**

(a) Duty to trim trees. The owner, agent, manager, lessee, tenant or occupant of any lot or tract of land shall remove or otherwise control any nuisance tree as defined herein, located on such property.

(b) Upon the discovery of a nuisance tree, the Town shall cause written notice of violation to be served, either personally or by certified mail, to the record owner of the property or to his or her agent, manager, tenant, lessee or occupant of the premises.

(c) If, after fifteen (15) days from the date of issuance of the notice of violation of this Article, the violation has not been corrected, a summons and complaint may be issued to the person named in the notice of violation unless satisfactory arrangements for an extension of time have been made with the Town. Upon the failure to cut, remove and/or remediate any tree being maintained in violation of this Article, the Town is hereby authorized to cause the cutting, removal and/or remediation of such tree at the owner's cost in addition to an administrative expense and penalty provided for violation of this Article.

**Sec. 6-150. - Penalty.**

Persons who fail to comply with any notice issued pursuant to any provision of this Article and convicted of a violation of provisions within this Code shall be subject to a fine. In addition, the Municipal Judge may order the defendant to remove the diseased or nuisance trees within a specified period of time. The penalty fines for violations existing within this Section shall be established by resolution of the Board of Trustees.

## CHAPTER ~~41~~7 - Streets, Sidewalks and Public Property

### ARTICLE I - Sidewalks, Curbs and Gutters

#### ~~Sec. 11-1. - Construction to be under supervision of Town Clerk.~~

~~All sidewalks, curbs or gutters built within the Town shall be constructed according to this Article and under the direction and supervision of the Town Clerk or his or her agent.~~

#### ~~Sec. 7-1, Sec. 11-2. - Authority of Board of Trustees generally.~~

The Board of Trustees is hereby authorized and empowered to construct and maintain sidewalks, curbs and gutters or any one (1) or more of such improvements and provide for the payment of the expense thereof by special assessments upon the adjacent or abutting property in the manner designated and provided by this Article.

#### ~~Sec. 11-3. - Petition by property owners. 7-2. - Snow, ice and debris removal. .~~

(a) ~~It is unlawful for the owner or occupant of any lot, parcel or tract of land within the City to permit snow, ice, debris, rubbish or dirt to remain on the public sidewalk on the street upon which such lot, parcel or tract of land abuts for a period exceeding 24 hours after the termination of the falling of the snow, or, in the case of debris, rubbish or dirt, for a period exceeding 24 hours from the time said debris, rubbish or dirt appeared on said sidewalk.~~

(b) ~~Every additional 24-hour period or fraction thereof during which said snow, ice, debris, rubbish or dirt remains on said sidewalk shall constitute a separate offense.~~

(c) ~~Violation of this Section is punishable pursuant to Section 1-42 of this Code.~~

#### ~~Sec. 7-3. - Maintenance of sidewalks.~~

(a) ~~Whenever the owners of one-half (1/2) of the frontage upon any sidewalk, curb or gutter of any street or specified portion of any street within the Town shall petition the Board of TrusteesTown for the construction of such sidewalk, curb or gutter, or whenever a two-thirds (2/3) majority of all of the members of the Board of Trustees shall the Town shall decide that such improvements are necessary, the Board of TrusteesTown may, at any regular meeting, by resolution, order the construction of such sidewalk, curb or gutter.~~

(b) ~~The cost of construction of such sidewalk, curb or gutter and the cost of construction thereof shall be apportioned between the owners of the abutting property and the Town as follows: the Town shall pay the cost of construction of such sidewalks, curbs and gutter across all streets and alleys, and the owners of the abutting property shall pay all other costs of construction in proportion to the number of feet each owner has of property fronting or abutting upon such sidewalk, curb or gutter; provided, however, that, In the Board of Trustees shall not order the construction of owner fails or refuses to pay such improvements or any of them upon such petition unless, in its opinion costs, the same will be for Town may assess the best interest of costs against the Town abutting property..~~

(c) ~~Whenever any owner of Sec. 11-4. - Notice to property owners of action of Board of Trustees.~~

~~Within three (3) days from the time the Board of Trustees orders the construction of any within the Town refuses to install a sidewalk, curb or gutter, the Town Clerk drainage culvert or~~

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~~curbwalk in accordance with the provisions of this Article, the Town, shall mail or give notice to or otherwise actually notify the owners directing the owner to install the same within ninety (90) days after receipt of the abutting property or their agents of notice. In the action taken by the Board of Trustees concerning event such improvements and notice shall call for sealed bids for not be obeyed, the Town may order the installation and construction of such improvements to be presented to the Board of Trustees at its next regular meeting. The notice to the property owners shall state the time and place of the opening of the bids.~~

**~~Sec. 11-5. - Filing of schedule of cost of improvements.~~**

~~After the completion of any sidewalk, curb or gutter as specified in this Article or curbwalk and the costs and to the satisfaction of the Town Clerk, the Town Clerk shall prepare and file a schedule showing the whole cost of construction exclusive of the street and alley crossings, together with a schedule showing the number of feet abutting on such improvements, the names of the owners of each lot fronting or abutting thereon and the number of feet each owner has fronting or abutting on such improvements. After the schedule is placed in the hands of the Town Clerk, he or she shall assess and proportion the cost of such sidewalk, curb and gutter among the property owners according to the number of feet of property each owner has fronting or abutting upon such improvement. The amount so expenses thereof shall be assessed shall become a valid against and subsisting be a lien against such fronting or abutting property and shall be due and payable at the time of such assessment by the owner or owners of such property. Such assessment must be paid within thirty (30) days from the time it is made property.~~

~~(d) Nothing in this section shall prevent the town from paying some or all costs, if town deems It appropriate.~~

**~~Sec. 7-4~~ ~~Sec. 11-6. - Collection of delinquent payments of assessments.~~**

If the owner of any abutting property shall fail to pay to the Town Clerk the amount assessed against him or her for the construction of curbs, gutters or sidewalks within thirty (30) days from the time that assessment is made, the Town Clerk shall certify the same to the County Treasurer, who shall place the same upon the tax list for the current year and collect the same in the same manner as other taxes, with ten percent (10%) penalty thereon to defray the cost of collection. Such assessments shall be and remain a lien upon such lots or parcels of land until paid by the owner.

**~~Sec. 11-7. - Private authority.~~**

~~All streets, alleys, sidewalks, curbs, gutters and curbwalks constructed within the Town shall be done only on the authority of an ordinance or on authority of a permit issued by the Town Clerk or his or her agent.~~

**~~7-5, Sec. 11-8. - Permit required; specifications.~~**

It shall be unlawful for any person, other than those under contract with the Town, to construct, reconstruct, alter or repair any street, alley, sidewalk, curb, gutter or curbwalk without having first obtained a permit from the Town ~~Clerk or his or her agent. A complete set of rules and regulations shall be prepared and approved by the Board of Trustees, describing the procedures, precautions and specifications under which such work shall be done and any other provisions deemed necessary to the best interests of the Town in connection therewith.~~

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**Sec. ~~11-97-6~~ - Application.**

Every person desiring to construct, reconstruct, alter or repair, excavate or cut or trench, any streets, alleys, sidewalks, curbs, gutters or curbwalks shall apply to the Town ~~Clerk~~ for a permit therefor on a form provided by the Town stating including the applicant's following information:

(1) The name, the location, lengths, dates of commencement address and completion telephone number of the applicant and any contractor or subcontractor who will perform any of the work and.

(2) A plan depicting the proposed work, work site, public right-of-way boundaries, and all existing infrastructure in the area.

(3) The dates for beginning and ending the proposed work, the proposed hours of work and the number of actual days required to complete the project.

(4) Copies of all permits and licenses (including required insurance, deposits, bonds and warranties) required to perform the proposed work, whether required by Federal or State law or by Town resolution, ordinance or regulation.

(5) The permit fee and, if applicable, a statement restoration fee.

The applicant shall update the permit application within ten days after any material change occurs. By signing the application, the applicant certifies that ~~the~~all work will be performed in ~~strict~~ compliance with the plans, specifications, ~~lines~~ and ~~grades~~ permit approved or furnished by the Town ~~Clerk or his or her agent.~~

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**Sec. ~~11-107-7~~ - Permit fee.**

~~A fee as established by resolution of the Board of Trustees~~A permit fee shall be paid to the Town prior to the issuance of said permit; provided, however, that said fee may be waived by the Town Clerk in his or her sole discretion in the event of small or minor installations or repairs.

**Sec. ~~11-11-7-8~~ - Restoration Fee and Bond ~~required~~.**

(a) In addition to the permit fee, the Town shall determine an appropriate restoration fee at the time a permit is issued. All restoration fees collected by the Town shall be refunded to the permittee upon satisfactory inspection of the completed project.

(b) Every person applying for a permit authorized by this Article and prior to the issuance thereof shall file a surety bond, good for one (1) year, in favor of the Town in the penal sum of one thousand dollars (\$1,000.00) and conditioned upon the faithful performance of such work in strict compliance with the plans, specifications, rules, regulations and ordinances of the Town; that such person will forthwith repair or replace any defective or unskilled work; and that such person will indemnify and save harmless the Town against and from any and all damages or claims for damages, loss, costs, charges or expenses that may be brought against it by reason of such work. Said bond may be waived by the Town Clerk in his or her sole discretion in the event of small or minor installation or repairs.

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**Sec. 7-9. – Insurance.**

A permittee under this Article must maintain liability insurance with minimum limits as required by the Town. The Town, its officers, agents and employees must be named as additional

insureds on the policy, and a certificate of insurance shall be provided at the time of application. Workers' compensation, consistent with State law, may be required.

**Sec. 7-10. – Indemnification.**

Each permittee and his or her employees, representatives, agents, contractors, related entities, successors and assigns shall hold the City harmless and defend and indemnify the City, its successors, assigns, officers, employees, agents and appointed and elected officials, from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the City for all its reasonable expenses, as incurred, arising out of any work or activity in the public right-of-way, including but not limited to the actions or omissions of the permittee, his or her employees, representatives, agents, contractors, related entities, successors and assigns, or the securing of and the exercise by the permittee of any rights granted in the permit, including any third-party claims, administrative hearings and litigation.

**Sec. ~~11-127-7~~ - Barricades and lights.**

Every person doing or causing to be done any of the work authorized by this Article shall keep the work barricaded at all times and, between the hours of sunset and sunrise, shall keep the same properly lighted as to warn all persons thereof.

**Sec. 7-8. – Inspections.**

The following inspections shall be the minimum required for a permit issued pursuant to the provisions of this Article:

(1) Pre-construction inspection. The Town shall conduct a pre-construction inspection to determine any necessary conditions for the permit.

(2) Completed work inspection. The permittee shall notify the Town immediately after completion of work, and the Town shall inspect the work within 15 days of the permittee's notification.

**Sec. 7-9. – Time of completion.**

All work covered by the permit shall be completed within the time period stated on the permit unless an extension has been granted by the Town in writing, in which case all work shall be completed within the time period stated in the written extension. Permits shall become void if work has not commenced within 30 days after issuance unless an extension has been granted by the Town in writing.

**Secs. ~~11-127-11~~ ~~11-127-10~~ 7-30. - Reserved.**

**ARTICLE II - Encroachments, Obstructions and Excavations**

**Sec. ~~11-127-31~~ - Maintenance.**

All sidewalks, curbs, gutters and curbwalks shall be maintained with an even surface in good repair and in conformity with the established grade of the streets along which they are constructed.

**Sec. ~~11-132~~ - Duty to keep sidewalks and gutters clean.**

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It shall be the duty of all owners or occupants of every premises within the Town to keep the sidewalks, gutters, curbs and curbwalks in front of and adjacent to the tenements and grounds occupied by them in good repair, and free and clear of snow, ice, mud, dirt, debris, rubbish and filth.

**Sec. ~~11-33~~7-32. - Encroachments prohibited.**

No encroachment or obstruction whatever, other than as provided by law, authorized by the ~~Board of Trustees~~ Town, or by ordinance of the Town, shall be made or placed upon any street, alley, sidewalk, curb, gutter, curbwalk or other public place within the Town.

**Sec. ~~11-34~~7-33. - Notice and removal of encroachments.**

Whenever any encroachment or obstruction, including ice, snow, mud, dirt, debris, rubbish or filth, is made, located, permitted or maintained contrary to this Article, the ~~Board of Trustees or Town Marshal~~ shall give notice to the ~~person who made, caused or permitted the same, or to the person who owns or controls owner or occupant of~~ the premises on which ~~the same~~ such encroachment or obstruction is located ~~or connected~~, directing such person to remove such encroachment or obstruction within forty-eight (48) hours after receipt of the notice. In the event such notice shall not be obeyed, the ~~Board of Trustees or Town Marshal~~ may order the removal of the encroachment or obstruction and the costs and expenses of such removal shall be assessed against the responsible person.

**~~Sec. 11-35. - Disturbance of grade stakes prohibited.~~**

~~It shall be unlawful for any person to remove or disturb any grade of line stakes or marks set by the Board of Trustees for the purpose specified in this Article.~~

**~~Sec. 7-34, Sec. 11-36. - Notice to install improvement.~~**

~~Whenever any owner of property within the Town shall refuse to install a sidewalk, curb, gutter, drainage culvert or curbwalk in accordance with the provisions of this Article, the Board of Trustees or Town Marshal, pursuant to authority given by the Board of Trustees, shall give notice to such person directing him or her to install the same within ninety (90) days after receipt of the notice. In the event such notice shall not be obeyed, the Board of Trustees or Town Marshal may order the installation and construction of such sidewalk, curb, gutter or curbwalk and the costs and expenses thereof shall be assessed against the responsible person.~~

**~~Sec. 11-37. - Installation of mains.~~**

It shall be the duty of every person and every utility company to install all mains, conduits, cables, poles and the like which may be deemed necessary for water, gas, sewer, storm drainage, telephone and electricity facilities prior to the installation, construction or paving of any streets, alleys, sidewalks and curbwalks.

**~~Sec. 11-38. - Authority and supervision~~7-35. - Minimal interference with other property.**

~~All work on any excavation, cut, trench or opening in or under any street, sidewalk, curb, gutter, curbwalk, alley or other public place shall be done only on authority of a permit issued by the Board of Trustees, and such work shall be supervised by the Town Clerk or his or her agent.~~

**~~Sec. 11-39. - Permit required; specifications.~~**

(a) ~~It shall be unlawful for any person, other than those under contract with the Town, to excavate, cut, open or trench in or under any street, sidewalk, curb, gutter, curbwalk, alley or other public place without having first obtained a permit from the Town Clerk. A complete set of rules and regulations shall be prepared by the Town Clerk and approved by the Board of Trustees describing the procedures, precautions and specifications under which the excavation work and backfilling shall be done and any other provisions deemed necessary to the best interests of the Town in connection therewith.~~

(b) ~~No cuts in new asphalt shall be allowed for a period of twenty-four (24) months unless approved by the Public Works Director as an emergency.~~

(c) ~~All contractor/utility repair equipment, to include but not be limited to a track hoe, skid loader, etc., shall be approved by the Public Works Director prior to project commencement.~~

(d) ~~Compaction test results shall be submitted to the Town Clerk within seven (7) days.~~

**~~Sec. 11-40.—Application:~~**

~~Every person desiring to do any of said excavation work shall apply to the Town Clerk for a permit therefor on a form provided by the Town, stating the applicant's name, the location, length, width and purpose of the proposed excavation, the amount of the permit fee, the dates of commencement and completion of the work and a statement that the work will be performed in strict compliance with the plans, specifications and procedures furnished by the Town Clerk.~~

**~~Sec. 11-41.—Permit fee:~~**

~~Permit fees for excavation shall be established by resolution of the Board of Trustees.~~

**~~Sec. 11-42.—Bond required:~~**

~~Every person applying for an excavation permit and prior to the issuance thereof shall file a surety bond, good for one (1) year, in favor of the Town in the sum of five thousand dollars (\$5,000.00) for applicable projects and conditioned upon the faithful performance of such work in strict compliance with the specifications, rules, regulations and ordinances of the Town and within the specified time limits, and that such person will indemnify and save harmless the Town against and from any and all damages or claims for damages, loss, costs, charges or expenses that may be brought against it by any person by reason of such work.~~

**~~Sec. 11-43.—Commencement and completion:~~**

~~All work authorized by a permit issued pursuant to this Article shall be commenced within a reasonable time after issuance of the permit and shall be diligently and continuously performed until completion. In the event weather, process of law or any other unexpected obstacles shall cause work to be stepped for so long a time that public travel shall be unreasonably obstructed, the Town Clerk may order the excavation refilled and repaved as if the work contemplated in the permit were actually completed.~~

**~~Sec. 11-44.—Barricades and lights:~~**

~~Every person making or causing to be made any excavation shall keep the excavation barricaded at all times and, between the hours of sunset and sunrise, shall keep such excavation properly lighted so as to warn all persons thereof.~~

**~~Sec. 11-45. — Width and minimum inconvenience to public.~~**

~~No opening or excavation shall be undercut or have a greater width at the bottom than at the top. Work in the public right-of-way shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Facilities shall be located, constructed and maintained in such a manner as not to interfere with sewers, water pipes or any Town property, or with any other pipes, wires, conduits, pedestals, structures or other facilities that may have been laid in the public rights-of-way by the Town or under its authority. Facilities shall not unnecessarily hinder or obstruct the free use of the public rights-of-way or other public property. In no case shall more than one-half (½) of such street, alley or other public place be opened or excavated at any one (1) time, and, in all cases, one-half (½) of such street, alley or other public place shall remain untouched for the accommodation of traffic until the other one-half (½) is restored for safe use. All such work shall be performed in such a way as to cause minimum inconvenience and restriction to the public and to both pedestrian and vehicular traffic.~~

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**~~Sec. 11-46-36. - Permits required for parades, processions.~~**

No funeral, procession or parade, excepting the forces of the United States Armed Services, the military forces of the State and the forces of the Marshal's and Fire Departments, shall occupy, march or proceed along any street or roadway except in accordance with a permit issued by the Town Marshal and such other regulations as are set forth herein which may apply.

**~~Sec. 11-47. — Sidewalks and gutters clear~~**7-37. - Location and relocation of facilities in rights-of-way.****

~~It shall be unlawful for any person performing any excavation work to place any dirt or other materials upon any sidewalk or in any gutters, and such work shall be performed so as to permit the free passage of water along the gutters.~~

**~~Sec. 11-48. — Backfill.~~**

~~(a) — Backfilling and compacting shall begin after first having properly bedded and compacted to a depth of not more than one (1) foot over the top of the structure with the specifications of the owner responsible for the maintenance of the structure or utility line. A patching diagram may be obtained from the Town Clerk.~~

~~(b) — Select backfill developed in the excavations made for the purpose of subsurface installations in Town right of way may be used for backfilling of trenches, given that such material contains not more than optimum moisture. Select backfill is the type of granular material meeting the requirements of either Bed Course Material (G3.07) or Structure Backfill Material Class 1 (G3.08) as specified in the El Paso County Standard Specifications for Road and Bridge Construction, Addendum 1.~~

~~(c) — Native backfill is that material composed of suitable materials developed in the excavations for subsurface utility installations. This material may meet the requirements of Subsection (b) above and may be used to backfill trenches within the rights of way. If the material does not meet the requirements of Subsection (b) above, and the material complies with G3.08, Class 2 of the El Paso County Standard Specifications for Road and Bridge Construction, such material may be used to such a compacted depth as to result in a void being a minimum of twelve (12) inches~~

greater than those depths specified in Section 11-50 below. The additional twelve (12) inch void shall be backfilled with material meeting Subsection (b) above.

**~~Sec. 11-49. — Compaction.~~**

~~Compacting of backfills must progress by placing backfill in eight (8) inch courses, loose measurement, thoroughly compacted and wetted as necessary to achieve greater than ninety percent (90%) relative compaction as tested in accordance with AASHTO Designation T180 Modified Proctor.~~

**~~Sec. 11-50. — Resurfacing.~~**

~~(a) — Surface repair. After proper backfill procedures are completed in accordance with the preceding requirements, the vacant depth shall be surfaced to a condition equal to or better than the existing surface. Permanent repairs shall begin within twenty-four (24) hours after backfilling is completed, and all permanent repairs shall be completed within a period of fifteen (15) calendar days.~~

~~(b) — Gravel surfaced roads. Backfill, as defined in Section 11-48 above, shall be placed to within twelve (12) inches of the surface, and the twelve (12) inch vacant depth shall be filled with granular material compacted to achieve greater than ninety percent (90%) relative compaction as determined by AASHTO T180 Modified Proctor, meeting the requirements specified under the aggregate for Bases Item, Class 6 of the Standard Specifications for Road and Bridge Construction, Department of Highways, State of Colorado (current issue).~~

~~(c) — Asphaltic concrete surfaced roads.~~

~~(1) — Backfill, as defined in Section 11-48 above, shall be placed within twelve (12) inches of the surface. Granular material described in Section 11-48(b) shall be placed and thoroughly wetted and compacted as determined by AASHTO T180 Modified Proctor to within four (4) inches of the surface. Prior to placing of asphaltic concrete, the edges of the cut and the top of the granular material shall be coated with an approved prime oil at not less than thirty hundredths (0.30) gallons per square yard. The four (4) inch vacant depth shall be filled with asphaltic concrete in two (2) inch lifts and thoroughly compacted. Asphaltic concrete for this purpose shall be mixed with asphaltic cement of the AC-10 type or equal and shall meet the minimum requirements as stated in the specifications for Grading E Asphaltic Concrete, Highway Department, State of Colorado. Ninety-five percent (95%) of this patched surface shall match the plane of the adjacent undisturbed surface, when measured by means of a six (6) foot straight edge or beam, within one eighth (1/8) inch.~~

~~(2) — Overlay of the entire street width and ten (10) feet beyond each end of the damaged area shall be required when utility installation is made longitudinally within five (5) feet of, or on the centerline of the paved street for a length of seventy-five (75) linear feet or more. For lengths less than the above stated, the repairs and/or overlays must be made as shall be agreed to by the contractor and the Town, prior to obtaining a permit.~~

~~(3) — Overlay of one-half (1/2) of the entire street width and ten (10) feet beyond each end of the damaged area shall be required when utility installation is made longitudinally within five (5) feet from the centerline and edge of the paved street for a length of seventy-five (75) linear feet or more. Again, for lengths less than the above stated, the repairs and/or~~

~~overlays must be made as shall be agreed to by the contractor and the Town prior to obtaining a permit.~~

~~(4) — Overlay of the entire street width and ten (10) feet beyond each end of incorporated damaged areas shall be required when two (2) lateral utility installations are made within seventy-five (75) linear feet of street length. Three (3) lateral utility installations within one hundred fifty (150) linear feet of street length, and four (4) lateral utility installations within two hundred fifty (250) linear feet of street length will also require full street width of overlay. Five (5) or more lateral utility installations within any one-half (½) mile (2,640 feet) of street or highway length will require overlay at the discretion of the Board of Trustees.~~

~~(5) — The minimum compacted depth of the asphaltic concrete overlay shall be three (3) inches with edges feathered as much as possible eliminating the fracturing of the mix aggregate. The areas of overlay shall require a tack coat of MC-70 or CSS-1.~~

~~(6) — The overlay must be placed by a mechanized self-propelled paver and finished in good workmanlike manner and good commercial practices.~~

~~(d) — During the cold times of the year with temperatures below forty degrees Fahrenheit (40°F), when hot plant mixed asphalt is unavailable to use, cold plant mixed asphaltic concrete shall be placed using the above stated procedures; however, this shall not be considered a permanent patch, and the contractor shall maintain this temporary patch as required to ensure proper and safe movement of traffic until such time as a permanent patch is installed. The responsible contractor shall install a permanent patch with hot asphaltic concrete when weather conditions warm sufficiently to permit its use.~~

~~(e) — At the conclusion of work on any street cut or opening within the Town-owned right-of-way, the entire area shall be left in its original or better condition. All waste construction materials shall be removed from the site and disposed of within seventy-two (72) hours. Any ditches, gutters, culverts or drain pipes shall be left unblocked and in a condition as good or better than the original condition.~~

~~(f) — A maintenance period of up to eighteen (18) months shall be required by contractors granted permits for said excavation.~~

#### **Sec. 11-51. — Location and relocation of facilities in rights-of-way.**

~~(a) — The location of any person's facilities in or under any street, sidewalk, curb, gutter, curbwalk, alley or other public place shall be subject to the prior approval of the Town, shall be located to maximize the potential use of the right of way, minimize interference with the Town's use and facilities, and conform to requirements of Town standards and specifications.~~

~~(b) — The Town recognizes that it is within its police power municipality~~(a) The Town is empowered to preserve the physical integrity of its rights-of-way, control the orderly flow of vehicles and pedestrians, and efficiently manage the gas, electric, water, cable, broadband, telephone, and other facilities that are placed within its public rights-of-way. It is the Town's policy to efficiently use public rights of way for a variety of infrastructure and utilities in order to provide public services; advance the Town's goal of increasing opportunities for access to traffic control, communication, and broadband services; limit the frequency of street closures and cutting of public streets; and reduce road degradation caused by repeated boring and trenching of public

rights of way. To this end, the Town requires all persons proposing work under this Chapter that involves directional boring or open trenching within a public right of way extending more than one hundred (100) feet in length to collocate and install Town conduit simultaneously with the work proposed. The Town will review all permit applications in a competitively neutral manner and make all permit decisions based on substantial evidence. The Town may, upon initial review of the permit application, determine that the proposed work does not demonstrate a need for collocation of Town infrastructure.

~~(e) For any work that requires collocation of Town conduit, the Town shall, as a condition of the issuance of the permit or continued validity of a permit, require the permittee to install Town conduit with tracer wire and associated infrastructure, as identified by the Town, concurrent with the installation of the permittee's infrastructure. The requirement for the permittee to install Town conduit with tracer wire and the associated infrastructure shall be completed after the Town has reviewed and approved all estimated costs associated with the co location of the Town conduit. The permittee shall install the Town conduit with tracer wire adjacent to the permittee's infrastructure and within the same bore or trench alignment. The Town will bear all costs associated with the Town conduit, pull boxes, and all other materials and infrastructure to be installed and the incremental increased costs incurred by the permittee (or its contractor or subcontractor) that are reasonably and directly attributable to the required collocation of Town conduit, materials and infrastructure.~~

~~(d) When a collocation of Town conduit is required, this completion inspection shall include physical verification of the installed Town conduit. The permittee may be required to submit signed as-built documentation of the Town's conduit to the Town at the Town's request.~~

~~(e)~~ (b) If at any time the Town requests the permittee to relocate its facilities in order to allow the Town to make any use of rights-of-way, or if at any time it shall become necessary or convenient to move or change the permittee's facilities within or adjacent to streets or rights of ways in any manner, either temporarily or permanently, because of a change in the grade or by reason of the improving, repairing, constructing, or maintaining of any street or rights of way, by reason of traffic conditions, public safety, by reason of installation of any type of Town utility facilities or other improvement, or by reason of any program from the undergrounding of such facilities, the Town shall notify the permittee at least ninety (90) days in advance, except in the case of emergencies, of the Town's intention to perform or have such work performed. The permittee shall thereupon, at its sole cost and expense, accomplish the necessary relocation, removal, or change within a reasonable time from the date of the notification, but in no event later than three (3) working days prior to the date the Town has notified the permittee that it intends to commence its work or immediately in the case of emergencies. Upon the permittee's failure to accomplish such work, the Town may perform such work at the permittee's expense and the permittee shall reimburse the Town within thirty (30) days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to construction by the permittee at the permittee's expense, and revised as-built plans submitted to the Town.

~~(f)~~ (c) The Town may require the relocation of facilities which are not installed in the approved location or corridor.

**Secs. 44-52---44-56(7, 8)---7-50. - Reserved.**

### **ARTICLE III - Street Numbering and Naming**



**Sec. ~~11-717-51~~. - Numbers required.**

It is the duty of the owner or occupant of every building in the Town to number such building in accordance with the provisions of this Article and with the numbers assigned by the Town ~~Clerk~~. The Town ~~Clerk~~ shall assign to every building its proper number. The expense of such numbering shall be paid by the owner or occupant of the building.

**Sec. ~~11-727-52~~. - System of numbering.**

In numbering the buildings upon the streets of the Town, all even numbers shall be on the south and east sides of each street or avenue and all odd numbers shall be on the north and west sides of each street or avenue; provided, however, that where said street or avenue shall curve or change direction, said street or avenue shall nevertheless be numbered in accordance with the principal direction thereof.

**Sec. ~~11-737-53~~. - Placing numbers.**

It shall be the duty of the owner or occupant of any building to place assigned numerals in a conspicuous position at the front of each building and, upon notice from the Town ~~Clerk or Town Marshal~~, such numerals shall be so placed within thirty (30) days after service of such notice.

**Sec. ~~11-747-54~~. - Materials of numbers.**

All numbers shall be of some metallic, glass, porcelain or other durable material, or gilt lettering on the inside of a glass transom or door, and shall be distinctly legible and at least three (3) inches in height.

**Sec. ~~11-75~~. - ~~Unauthorized numbers~~7-55. - Naming streets.**

~~It shall be unlawful for any owner or occupant of any building to use or permit to be used upon any building any number other than the number assigned by the Town Clerk.~~

**Sec. ~~11-76~~. - Map of streets.**

~~The Town Clerk shall prepare, or cause to be prepared, from time to time when directed by the Board of Trustees, a map of the streets of the Town showing all numbers of all buildings and lots and the names of all streets.~~

**Sec. ~~11-77~~. - Certificate of numbers.**

~~Upon proper application and payment of a fee as established by resolution of the Board of Trustees, the Town Clerk shall issue to the owner or occupant of any building or lot a certificate designating the proper number for such building or lot. Any certificate so issued shall pertain to the number of only one (1) building or lot.~~

**Sec. ~~11-78~~. - Naming streets.**

~~The Board of Trustees~~The Town shall have the power to name or rename any of the streets or public highways of the Town, and ~~the Board of Trustees shall have the power~~ to divide or subdivide any of the streets, public highways or public lands into streets, roadways, gutters, sidewalks and parks.

**Secs. ~~11-80~~ ~~11-867-56~~ ~~7-70~~. - Reserved.**

#### ARTICLE IV - Public Parks

##### Sec. ~~11-917-71~~. - Town may establish parks.

The Town, which is incorporated under the laws of the State, shall have authority to acquire, establish and maintain in the manner provided for by state law, public parks or pleasure grounds, boulevards, parkways, avenues and roads.

##### Sec. ~~11-927-72~~. - Definitions.

For the purposes of this Article, the following words, unless the context requires otherwise, shall have the following meanings:

- (1) — Park means land that is owned or designated by the Town for public recreational use such as open space around the lake and swimming pool, playgrounds, trails, stream corridors, forestland and alpine meadows.
- (2) — Person means any person, partnership, association, corporation, company or organization of any kind.

##### Sec. ~~11-937-73~~. - Reserved.

##### Sec. ~~11-947-74~~. - Destruction of park property.

It ~~shall be~~is unlawful to cut, mark, remove, break, climb upon or in any way injure, damage or deface the trees, shrubs, plants, turf, benches, tables, basketball goals and equipment, tennis nets or any of the buildings, fences, bridges, signs or other structures or property within or upon park premises; or in any other way injure or impair the natural beauty or usefulness of any park, trail or recreation area.

##### Sec. ~~11-957-75~~. - Private functions in the Gazebo.

- (a) — Private functions such as weddings, receptions and similar activities are hereby authorized in the Town Gazebo; provided that an application to be furnished by the Town shall be submitted to the Town Clerk with a fee as established by resolution of the Board of Trustees, and the Town Clerk receives and approves the same and schedules the function so as not to conflict with any other such ceremony or any other activities scheduled for the Gazebo.
- (b) — In the event that the Town Clerk refuses an application for a function in the Gazebo, the applicant shall have the right and opportunity to appeal such decision to the Board of Trustees at the next regularly scheduled meeting of the same.
- (c) — Permits will include exclusive use of the bridge and entire island during the period of the permit.

##### Sec. ~~11-967-76~~. - Erection of tents and buildings and camping.

(a) — It shall beis unlawful to build or place any tent, building, booth, stand or other structure in or upon any of the parks, parkways or other recreational facilities without first having obtained a permit to do so from the Town Clerk.

(b) It is unlawful to camp on park lands except by permit from the Town.

##### Sec. ~~11-977-77~~. - Fires prohibited.

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(a) — ~~It shall be~~ unlawful to build, attend or use an open fire on any park land including campfires, warming fires and cooking fires except those contained in metal fire rings and grills installed by the Town and approved by the Fire District.

(b) — ~~It shall be~~ unlawful to build fires any place on park land during periods that the U.S. Forest Service rates the fire danger as very high or extreme for the Ute Pass area or fire restrictions have been declared by the Fire District or County Fire Marshal.

**Sec. ~~11-98~~7-78. - Riding of animals in public parks prohibited.**

It shall be unlawful for any person to ride or lead any horse or other livestock in any public park, recreational area or trail except upon paths or other ways expressly provided and posted for that purpose.

**Sec. ~~11-99. - Huckstering prohibited~~7-79. - Mobile vendors and peddlers.**

It ~~shall be~~ unlawful to offer any goods, services or things for sale within parks, walkways or recreational facilities, or on the streets and sidewalks within three hundred (300) feet of the boundary of the same, without first having obtained a license or permit to do so ~~in the manner pursuant to the terms and conditions fixed by the Board of Trustees as provided for under Section 5-71.~~

**Sec. ~~11-100. - Camping prohibited.~~**

~~It shall be unlawful to camp on park lands except by permit by the Board of Trustees.~~

**Sec. ~~11-101~~7-80. - Vehicles prohibited on trails.**

It shall be unlawful to operate any vehicles, motorized and nonmotorized, and mountain bikes on ~~the Thomas and Catamount Trails trails where marked prohibited.~~

**Sec. ~~11-102~~7-81. - Shooting prohibited.**

It shall be unlawful to discharge any firearm on park land. Firearms shall include any pistol, revolver, rifle, shotgun, air gun, gas-operated gun, spring gun, B-B gun or other such type of device or any device capable of propelling a projectile.

**Sec. ~~11-103~~7-82. - Alcoholic beverages.**

(a) — ~~It shall be~~ unlawful for any person to consume ~~or sell~~ alcoholic liquor or beverages ~~or 3.2% beer~~ in any park at any time except where authorized by a special events permit. ~~It shall be unlawful for any person to sell alcoholic liquor or beverages or 3.2% beer in any park at any time.~~

(b) — ~~It shall be unlawful for any person to enter a park when under the influence of any alcoholic liquor or beverage, 3.2% beer, narcotic or other intoxicant or to be under the influence of any intoxicant while in any park at any time.~~

**Sec. ~~11-104~~7-83. - Penalty.**

The penalty fines for violations existing within this Section shall be ~~established by resolution of the Board of Trustees in accordance with Section 1-42 of this Code.~~

**~~Sec. 11-105. - Nuisance.~~**

~~It shall be unlawful for any person to disturb, or aid in disturbing, the peace of others in the park by violent, tumultuous, offensive, unruly or obnoxious conduct.~~

~~Secs. 44-106—44-140, 7-84—7-100~~ - Reserved

## **ARTICLE V - Public Land~~s~~**

~~Sec. 11-141~~ Sec. 7-101. - Factors to be considered in granting easements.

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The following factors shall be considered in review by the ~~Planning Commission and Board of Trustees~~ Town of any request for an easement for use of public lands. Said factors shall not be exclusive, however:

- (1) — Conformation with the Town Comprehensive Plan;
- (2) — Adverse effects to the Town if an easement is granted;
- (3) — Benefits to the Town if an easement is granted.

No decision by the Town to grant any said easement shall be controlling on any subsequent request for similar grants of public land.

~~Sec. 11-142~~ 7-102. - Reasons for granting of easement.

The following reasons for granting of said easement shall be deemed sufficient justification for such grant;

- (1) — Compensation due and payable to the Town for use;
- (2) — Assistance to property owners who do not have clear title to their land due to an encroachment of their property upon public land and which purchase of said public property is not considered a feasible alternative by the Planning Commission and Board of Trustees;
- (3) — Service of the health, safety and welfare of the inhabitants of the Town, or alternatively, lack of detriment or harm to the health, safety and welfare of the inhabitants of the Town.

~~Sec. 11-143.~~ Presentations required to procure a grant of easement.

~~Anyone wishing to procure a grant of an easement for the use of public land owned by the Town will be required to make two (2) presentations to the Planning Commission, as further described below, as a precondition to seeking the Board of Trustees' agreement to said sale:~~

- ~~(1) — The first presentation shall include clear identification of the land to be subjected to an easement and the feasibility of the proposed easement (Step #1 — Concept Approval).~~
- ~~(2) — The second presentation shall include the formal submittal requirements (Step #2 — Formal Submittal).~~
- ~~(3) — Any decision to grant said easement shall be by resolution passed by the Board of Trustees.~~
- ~~(4) — The procedure for the first and second presentation to the Planning Commission shall be determined by the Planning Commission, which shall set forth guidelines in the form of check lists for preparation for said proceedings, to include public hearing procedures. Said guidelines shall be available to the public, and may be provided at the office of the Town Clerk.~~
- ~~(5) — No second presentation will be scheduled before the Planning Commission until the guidelines for presentation as set forth in the document available to the public have been~~

~~met. Review of said guidelines shall be made by the Town Clerk as a prerequisite to scheduling said presentation before the Planning Commission.~~

**~~Sec. 11-114. — Annual fee for easement.~~**

~~An annual fee established by resolution of the Board of Trustees shall be charged for easements. The charge made for any easement shall include reasonable compensation for any costs borne by the Town incurred as a result of said application.~~

**~~Sec. 11-115. — Decision not binding on future requests for easements.~~**

~~No decision by the Board of Trustees to grant any said easement shall be controlling on any subsequent request for similar grants of public land.~~

**~~Sec. 11-116-7-103. - Factors to be considered in sale of public land.~~**

The following factors shall be considered in review by the ~~Planning Commission and Board of Trustees~~Town of any request to purchase public lands. Said factors shall not be exclusive, however:

- (1) — Conformation with the Town Comprehensive Plan;
- (2) — Adverse effects to the Town if property is sold;
- (3) — Benefits to the Town if property is sold.

No decision by the Town to sell any public land shall be controlling on any subsequent request for sale of public land.

**~~Sec. 11-117-104. - Reasons for sale.~~**

The following reasons for sale of public land shall be deemed sufficient justification for such sale;

- (1) — Reduction in Town liability;
- (2) — Increase in tax base;
- (3) — Assistance to property owners who do not have clear title to their land due to an encroachment of their property upon public land.

**~~Sec. 11-118. — Presentations required to purchase public land.~~**

~~Anyone wishing to purchase public land owned by the Town will be required to make two (2) presentations to the Planning Commission, as further described below, as a precondition to seeking the Board of Trustees' agreement to said sale:~~

- ~~(1) — The first presentation shall include clear identification of the land to be purchased and a discussion of the feasibility of the proposed easement (Step #1 — Concept Approval).~~
- ~~(2) — The second presentation shall include the formal submittal requirements (Step #2 — Formal Submittal).~~
- ~~(3) — After the required presentations, the Planning Commission will then make its recommendation to the Board of Trustees, which has final authority for approval or denial. Any decision to sell public land shall be by Ordinance passed by the Board of Trustees.~~

~~(4) — The procedure for the first and second presentation to the Planning Commission shall be determined by the Planning Commission, which shall set forth guidelines in the form of check lists for preparation for said proceedings. Said guidelines shall be available to the public, and may be provided at the office of the Town Clerk.~~

~~(5) — No second presentation will be scheduled before the Planning Commission until the guidelines for presentation as set forth in the document available to the public have been met. Review of said guidelines shall be made by the Town Clerk as a prerequisite to scheduling said presentation before the Planning Commission.~~

**Sec. 11-119.7-105. - Determination of fair market value for purchase.**

The fair market value for public land may be determined by the Board of Trustees on an annual basis. Said value shall be based upon the average square footage price of undeveloped but developable lots located within the boundaries of the Town. Said fair market value shall be applied to the sale of any public land, unless the Board of Trustees determines, after hearing evidence from the petitioning party, that said value is not appropriate in the case of a specific proposed purchase. If the petitioning party wishes the application of any other square footage price petitioning party shall bear any costs incurred in determining said applicable price.

**Sec. 11-120. — Decision not binding on future requests for purchase** **7-105 — 7-120 - Reserved**

~~No decision by the Board of Trustees to sell any public land shall be controlling on any subsequent request for sale of public land.~~

**Sec. 11-121 — 11-140 — Reserved**

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## **CHAPTER 7 - Streets, Sidewalks and Public Property**

### **ARTICLE I - Sidewalks, Curbs and Gutters**

#### **Sec. 7-1. - Authority of Board of Trustees generally.**

The Board of Trustees is hereby authorized and empowered to construct and maintain sidewalks, curbs and gutters or any one (1) or more of such improvements and provide for the payment of the expense thereof by special assessments upon the adjacent or abutting property in the manner designated and provided by this Article.

#### **Sec. 7-2. - Snow, ice and debris removal.**

- (a) It is unlawful for the owner or occupant of any lot, parcel or tract of land within the City to permit snow, ice, debris, rubbish or dirt to remain on the public sidewalk on the street upon which such lot, parcel or tract of land abuts for a period exceeding 24 hours after the termination of the falling of the snow, or, in the case of debris, rubbish or dirt, for a period exceeding 24 hours from the time said debris, rubbish or dirt appeared on said sidewalk.
- (b) Every additional 24-hour period or fraction thereof during which said snow, ice, debris, rubbish or dirt remains on said sidewalk shall constitute a separate offense.
- (c) Violation of this Section is punishable pursuant to Section 1-42 of this Code.

#### **Sec. 7-3. - Maintenance of sidewalks.**

- (a) Whenever the owners of the frontage upon any sidewalk, curb or gutter of any street or specified portion of any street within the Town petition the Town for the construction of such sidewalk, curb or gutter, or whenever the Town shall decide that such improvements are necessary, the Town may, order the construction of such sidewalk, curb or gutter.
- (b) The cost of construction of such sidewalk, curb or gutter shall be apportioned between the owners of the abutting property in proportion to the number of feet each owner has of property fronting or abutting upon such sidewalk, curb or gutter. In the event the owner fails or refuses to pay such costs, the Town may assess the costs against the abutting property..
- (c) Whenever any owner of property within the Town refuses to install a sidewalk, curb, gutter, drainage culvert or curbwalk in accordance with the provisions of this Article, the Town, shall give notice directing the owner to install the same within ninety (90) days after receipt of the notice. In the event such notice shall not be obeyed, the Town may order the installation and construction of such sidewalk, curb, gutter or curbwalk and the costs and expenses thereof shall be assessed against and be a lien against such property.
- (d) Nothing in this section shall prevent the town from paying some or all costs, if town deems It appropriate.

#### **Sec. 7-4. - Collection of delinquent payments of assessments.**

If the owner of any abutting property shall fail to pay to the Town Clerk the amount assessed against him or her for the construction of curbs, gutters or sidewalks within thirty (30) days from the time that assessment is made, the Town Clerk shall certify the same to the County Treasurer, who shall place the same upon the tax list for the current year and collect the same in the same manner as other taxes, with ten percent (10%) penalty thereon to defray the cost of



collection. Such assessments shall be and remain a lien upon such lots or parcels of land until paid by the owner.

**Sec. 7-5. - Permit required; specifications.**

It shall be unlawful for any person, other than those under contract with the Town, to construct, reconstruct, alter or repair any street, alley, sidewalk, curb, gutter or curbwalk without having first obtained a permit from the Town.

**Sec. 7-6. - Application.**

Every person desiring to construct, reconstruct, alter or repair, excavate or cut or trench, any streets, alleys, sidewalks, curbs, gutters or curbwalks shall apply to the Town for a permit therefor on a form provided by the Town including the following information:

- (1) The name, address and telephone number of the applicant and any contractor or subcontractor who will perform any of the work.
- (2) A plan depicting the proposed work, work site, public right-of-way boundaries, and all existing infrastructure in the area.
- (3) The dates for beginning and ending the proposed work, the proposed hours of work and the number of actual days required to complete the project.
- (4) Copies of all permits and licenses (including required insurance, deposits, bonds and warranties) required to perform the proposed work, whether required by Federal or State law or by Town resolution, ordinance or regulation.
- (5) The permit fee and, if applicable, a restoration fee.

The applicant shall update the permit application within ten days after any material change occurs. By signing the application, the applicant certifies that all work will be performed in compliance with the plans, specifications, and permit approved or furnished by the Town.

**Sec. 7-7. - Permit fee.**

A permit fee shall be paid to the Town prior to the issuance of said permit; provided, however, that said fee may be waived by the Town Clerk in his or her sole discretion in the event of small or minor installations or repairs.

**Sec. 7-8. - Restoration Fee and Bond.**

(a) In addition to the permit fee, the Town shall determine an appropriate restoration fee at the time a permit is issued. All restoration fees collected by the Town shall be refunded to the permittee upon satisfactory inspection of the completed project.

(b) Every person applying for a permit authorized by this Article and prior to the issuance thereof shall file a surety bond, good for one (1) year, in favor of the Town in the penal sum of one thousand dollars (\$1,000.00) and conditioned upon the faithful performance of such work in strict compliance with the plans, specifications, rules, regulations and ordinances of the Town; that such person will forthwith repair or replace any defective or unskilled work; and that such person will indemnify and save harmless the Town against and from any and all damages or claims for damages, loss, costs, charges or expenses that may be brought against it by reason of such work.

Said bond may be waived by the Town Clerk in his or her sole discretion in the event of small or minor installation or repairs.

**Sec. 7-9. – Insurance.**

A permittee under this Article must maintain liability insurance with minimum limits as required by the Town. The Town, its officers, agents and employees must be named as additional insureds on the policy, and a certificate of insurance shall be provided at the time of application. Workers' compensation, consistent with State law, may be required.

**Sec. 7-10. – Indemnification.**

Each permittee and his or her employees, representatives, agents, contractors, related entities, successors and assigns shall hold the City harmless and defend and indemnify the City, its successors, assigns, officers, employees, agents and appointed and elected officials, from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the City for all its reasonable expenses, as incurred, arising out of any work or activity in the public right-of-way, including but not limited to the actions or omissions of the permittee, his or her employees, representatives, agents, contractors, related entities, successors and assigns, or the securing of and the exercise by the permittee of any rights granted in the permit, including any third-party claims, administrative hearings and litigation.

**Sec. 7-7. - Barricades and lights.**

Every person doing or causing to be done any of the work authorized by this Article shall keep the work barricaded at all times and, between the hours of sunset and sunrise, shall keep the same properly lighted as to warn all persons thereof.

**Sec. 7-8. – Inspections.**

The following inspections shall be the minimum required for a permit issued pursuant to the provisions of this Article:

(1) Pre-construction inspection. The Town shall conduct a pre-construction inspection to determine any necessary conditions for the permit.

(2) Completed work inspection. The permittee shall notify the Town immediately after completion of work, and the Town shall inspect the work within 15 days of the permittee's notification.

**Sec. 7-9. – Time of completion.**

All work covered by the permit shall be completed within the time period stated on the permit unless an extension has been granted by the Town in writing, in which case all work shall be completed within the time period stated in the written extension. Permits shall become void if work has not commenced within 30 days after issuance unless an extension has been granted by the Town in writing.

**Secs. 7-10—7-30. - Reserved.**

**ARTICLE II - Encroachments, Obstructions and Excavations**

**Sec. 7-31. - Maintenance.**

It shall be the duty of all owners or occupants of every premises within the Town to keep the sidewalks, gutters, curbs and curbwalks in front of and adjacent to the tenements and grounds occupied by them in good repair, and free and clear of snow, ice, mud, dirt, debris, rubbish and filth.

**Sec. 7-32. - Encroachments prohibited.**

No encroachment or obstruction whatever, other than as provided by law, authorized by the Town, or by ordinance of the Town, shall be made or placed upon any street, alley, sidewalk, curb, gutter, curbwalk or other public place within the Town.

**Sec. 18-61. - Permits required.**

The space below the surface, upon the surface, and above the surface of public property may be used and occupied for any purposes not inconsistent with the provisions of this Article, other provisions of this Code, or other laws or ordinances regulating the use and occupancy of such public property; provided, however, that it shall be unlawful for any person to use or occupy such space, whether below, upon or above the surface of public property, or to construct any device or structure thereupon as hereinafter set forth except by and under the authority of a revocable permit in writing, first granted by the Board of Trustees and issued by the Town Clerk. The Board of Trustees may impose terms and conditions relevant to the use of the applicable public space. It is unlawful for any person to use or occupy such space for any purpose other than that specifically provided for in such revocable permit or to use or occupy the space in a manner that violates the terms and conditions applicable to such space.

**Sec. 18-62. - Application for permit.**

An application for a revocable permit shall be filed with the Town on a form or forms provided by the Town.

**Sec. 7-33. - Notice and removal of encroachments.**

Whenever any encroachment or obstruction, including ice, snow, mud, dirt, debris, rubbish or filth, is made, located, permitted or maintained contrary to this Article, the Town shall give notice to the owner or occupant of the premises on which such encroachment or obstruction is located, directing such person to remove such encroachment or obstruction within forty-eight (48) hours after receipt of the notice. In the event such notice shall not be obeyed, the Town may order the removal of the encroachment or obstruction and the costs and expenses of such removal shall be assessed against the responsible person.

**Sec. 18-64. - Permit fees; renewals.**

(a) The cost of each permit, to cover the cost of investigation and filing and not as rental for use of Town property, shall be as established by resolution of the Board of Trustees, payable to the Town Clerk upon issuance. Such permit shall not be refundable or proratable in the event of suspension or revocation.

(b) All revocable permits shall be renewable unless expressly declared to be nonrenewable on the face of the permit. Renewal shall be obtained from the Town Clerk upon payment of the required fee if the Town Clerk has not received any objections in writing concerning the revocable permit. If such objections are received, the Board of Trustees shall review

the renewal request to determine whether the public interest will be jeopardized by renewal of the permit. If it finds that the public interest is jeopardized, the Board of Trustees shall refuse to renew the permit.

**Sec. 18-65. - Permit term; expiration date.**

All revocable permits shall expire on December 31 of each year. Renewal of revocable permits shall be requested prior to December 31. If no request is made for renewal, such use, device or structure occupying public property shall be considered to have been discontinued and, if still remaining, will be removed at the expense of the permittee. An additional fee as established by resolution of the Board of Trustees will be charged for each late renewal.

**Sec. 18-67. - Assignment of permit.**

There shall be no assignment of any revocable permit, except by express authorization in writing by the Board of Trustees. Such authorization shall not be withheld if the assignee complies with all the requirements of this Article.

**Sec. 18-68. - Indemnification.**

The permittee shall be responsible for any and all damages to property or injury to persons arising out of the exercise of the permit or the construction or installation of any device or structure thereunto appertaining, including the maintenance thereof, and the permittee shall indemnify and save harmless the Town and all its officers, agents or employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by a person, persons or property on account of the exercise of the permit, or of any act or omission of the permittee, his or her agents or employees or on account of the failure of the permittee to maintain the structure or device or to provide necessary safety devices to ensure the safety of the public. The permittee shall defend against any such suit, action or claim and pay any judgment, with costs, which may be obtained against the Town, its officers, agents or employees growing out of such injury or damage.

**Sec. 18-69. - Additional provisions or conditions.**

(a) or the Board of Trustees is authorized to impose on the permittee at any time additional conditions or provisions relating to the revocable permit for the use or occupancy of public property that are reasonable and necessary to protect the public health, safety and welfare. Without limiting the generality of the foregoing, the Board of Trustees may consider the requirement of a bond or cash deposit to assure the removal of any device or structure at the expiration of or in the event of revocation of the permit, or to assure the completion of the work within the required time or restoration of the surface of the public space to the former conditions upon completion of installation of the structure or device for which the permit is requested.

(b) The Board of Trustees is authorized to waive any of the provisions or conditions of this Article in respect to any revocable permit requested by any charitable, educational, nonprofit institution, organization or association whose request for a revocable permit is for a temporary use, device or structure.

**Sec. 18-70. - Compliance with laws.**

The permittee shall inform himself or herself, keep fully informed, and comply with all federal and state laws and Town ordinances, including but not limited to the various construction codes of the Town as the same may be now or hereafter amended. The permittee shall at all times protect and indemnify the Town, its officers, agents and employees against any claim of liability arising from or based on violations of such laws, ordinances or regulations caused by any actions or omissions of the permittee arising out of the exercise of the permit.

**Sec. 18-71. - Permit site.**

The site or sites of the permitted use, occupancy or both shall have adequate safeguards to protect the public against damage or injury, and shall be kept in a clean and orderly manner. Failure to maintain a safe, clean and orderly site shall be cause for suspension or revocation if such fault is continued or of aggravated nature.

**Sec. 18-76. - Revocation of permits.**

Any revocable permit may be revoked by the Board of Trustees if such action is deemed to be necessary to protect the public safety, necessity or convenience in the use of public property. Notice shall be given in writing to the permittee at least fourteen (14) days before the effective date of revocation in order to allow the permittee to seek review of the decision by the Board of Trustees. Such notice requirement shall not limit the power of the Board of Trustees to summarily revoke any revocable permit if there is a present existing or imminent danger to the public health, safety or welfare.

**Sec. 18-77. - Appeal procedures.**

Any applicant for a revocable permit, or any person protesting such application who is aggrieved by the action or decision of the Planning Commission or Board of Trustees, may request a hearing to review said decision in front of the Board of Trustees. The request shall be in writing, shall be executed by the applicant, his or her agent or attorney, in duplicate, shall state and specify briefly the grounds for the request and shall be filed with the Town Clerk within ten (10) days after the Planning Commission or Board of Trustees action has been taken. The Board of Trustees shall then give public notice of the request and shall hold a public hearing. The hearing shall be *de novo* and all facts and circumstances shall be heard and considered. At the conclusion of the hearing, the Board of Trustees may deny or revoke the permit, order changes in the conditions and provisions of the permit, or order the issuance, continuance or renewal of the permit.

**Sec. 7-34. - Installation of mains.**

It shall be the duty of every person and every utility company to install all mains, conduits, cables, poles and the like which may be deemed necessary for water, gas, sewer, storm drainage, telephone and electricity facilities prior to the installation, construction or paving of any streets, alleys, sidewalks and curbswalks.

**Sec. 7-35. - Minimal interference with other property.**

Work in the public right-of-way shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Facilities shall be located, constructed and maintained in such a manner as not to interfere with sewers, water pipes or any Town property, or with any other pipes, wires, conduits, pedestals, structures or other facilities

that may have been laid in the public rights-of-way by the Town or under its authority. Facilities shall not unnecessarily hinder or obstruct the free use of the public rights-of-way or other public property. In no case shall more than one-half (½) of such street, alley or other public place be opened or excavated at any one (1) time, and, in all cases, one-half (½) of such street, alley or other public place shall remain untouched for the accommodation of traffic until the other one-half (½) is restored for safe use.

**Sec. 7-36. - Permits required for parades, processions.**

No funeral, procession or parade, excepting the forces of the United States Armed Services, the military forces of the State and the forces of the Marshal's and Fire Departments, shall occupy, march or proceed along any street or roadway except in accordance with a permit issued by the Town Marshal and such other regulations as are set forth herein which may apply.

**Sec. 7-37. - Location and relocation of facilities in rights-of-way.**

(a) The Town is empowered to preserve the physical integrity of its rights-of-way, control the orderly flow of vehicles and pedestrians, and efficiently manage the gas, electric, water, cable, broadband, telephone, and other facilities that are placed within its public rights-of-way. It is the Town's policy to efficiently use public rights of way for a variety of infrastructure and utilities in order to provide public services; advance the Town's goal of increasing opportunities for access to traffic control, communication, and broadband services; limit the frequency of street closures and cutting of public streets; and reduce road degradation caused by repeated boring and trenching of public rights of way. To this end, the Town requires all persons proposing work under this Chapter that involves directional boring or open trenching within a public right of way extending more than one hundred (100) feet in length to collocate and install Town conduit simultaneously with the work proposed. The Town will review all permit applications in a competitively neutral manner and make all permit decisions based on substantial evidence. The Town may, upon initial review of the permit application, determine that the proposed work does not demonstrate a need for collocation of Town infrastructure.

(b) If at any time the Town requests the permittee to relocate its facilities in order to allow the Town to make any use of rights-of-way, or if at any time it shall become necessary or convenient to move or change the permittee's facilities within or adjacent to streets or rights of ways in any manner, either temporarily or permanently, because of a change in the grade or by reason of the improving, repairing, constructing, or maintaining of any street or rights of way, by reason of traffic conditions, public safety, by reason of installation of any type of Town utility facilities or other improvement, or by reason of any program from the undergrounding of such facilities, the Town shall notify the permittee at least ninety (90) days in advance, except in the case of emergencies, of the Town's intention to perform or have such work performed. The permittee shall thereupon, at its sole cost and expense, accomplish the necessary relocation, removal, or change within a reasonable time from the date of the notification, but in no event later than three (3) working days prior to the date the Town has notified the permittee that it intends to commence its work or immediately in the case of emergencies. Upon the permittee's failure to accomplish such work, the Town may perform such work at the permittee's expense and the permittee shall reimburse the Town within thirty (30) days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to

construction by the permittee at the permittee's expense, and revised as-built plans submitted to the Town.

(c) The Town may require the relocation of facilities which are not installed in the approved location or corridor.

**Secs. 7-38—7-50. - Reserved.**

### **ARTICLE III - Street Numbering and Naming**

#### **Sec. 7-51. - Numbers required.**

It is the duty of the owner or occupant of every building in the Town to number such building in accordance with the provisions of this Article and with the numbers assigned by the Town. The Town shall assign to every building its proper number. The expense of such numbering shall be paid by the owner or occupant of the building.

#### **Sec. 7-52. - System of numbering.**

In numbering the buildings upon the streets of the Town, all even numbers shall be on the south and east sides of each street or avenue and all odd numbers shall be on the north and west sides of each street or avenue; provided, however, that where said street or avenue shall curve or change direction, said street or avenue shall nevertheless be numbered in accordance with the principal direction thereof.

#### **Sec. 7-53. - Placing numbers.**

It shall be the duty of the owner or occupant of any building to place assigned numerals in a conspicuous position at the front of each building and, upon notice from the Town, such numerals shall be so placed within thirty (30) days after service of such notice.

#### **Sec. 7-54. - Materials of numbers.**

All numbers shall be of some metallic, glass, porcelain or other durable material, or gilt lettering on the inside of a glass transom or door, and shall be distinctly legible and at least three (3) inches in height.

#### **Sec. 7-55. - Naming streets.**

The Town shall have the power to name or rename any of the streets or public highways of the Town, and to divide or subdivide any of the streets, public highways or public lands into streets, roadways, gutters, sidewalks and parks.

**Secs. 7-56—7-70. - Reserved.**

### **ARTICLE IV - Public Parks**

#### **Sec. 7-71. - Town may establish parks.**

The Town, which is incorporated under the laws of the State, shall have authority to acquire, establish and maintain in the manner provided for by state law, public parks or pleasure grounds, boulevards, parkways, avenues and roads.

#### **Sec. 7-72. - Definitions.**

For the purposes of this Article, the following words, unless the context requires otherwise, shall have the following meanings:

- (1) *Park* means land that is owned or designated by the Town for public recreational use such as open space around the lake and swimming pool, playgrounds, trails, stream corridors, forestland and alpine meadows.
- (2) *Person* means any person, partnership, association, corporation, company or organization of any kind.

Sec. 7-73. - Reserved.



**Sec. 7-74. - Destruction of park property.**

It is unlawful to cut, mark, remove, break, climb upon or in any way injure, damage or deface the trees, shrubs, plants, turf, benches, tables, basketball goals and equipment, tennis nets or any of the buildings, fences, bridges, signs or other structures or property within or upon park premises; or in any other way injure or impair the natural beauty or usefulness of any park, trail or recreation area.

**Sec. 7-75. - Private functions in the Gazebo.**

(a) Private functions such as weddings, receptions and similar activities are hereby authorized in the Town Gazebo; provided that an application to be furnished by the Town shall be submitted to the Town Clerk with a fee as established by resolution of the Board of Trustees, and the Town Clerk receives and approves the same and schedules the function so as not to conflict with any other such ceremony or any other activities scheduled for the Gazebo.

(b) In the event that the Town Clerk refuses an application for a function in the Gazebo, the applicant shall have the right and opportunity to appeal such decision to the Board of Trustees at the next regularly scheduled meeting of the same.

(c) Permits will include exclusive use of the bridge and entire island during the period of the permit.

**Sec. 7-76. - Erection of tents and buildings and camping.**

(a) It is unlawful to build or place any tent, building, booth, stand or other structure in or upon any of the parks, parkways or other recreational facilities without first having obtained a permit to do so from the Town Clerk.

(b) It is unlawful to camp on park lands except by permit from the Town.

**Sec. 7-77. - Fires prohibited.**

(a) It is unlawful to build, attend or use an open fire on any park land including campfires, warming fires and cooking fires except those contained in metal fire rings and grills installed by the Town and approved by the Fire District.

(b) It is unlawful to build fires any place on park land during periods that the U.S. Forest Service rates the fire danger as very high or extreme for the Ute Pass area or fire restrictions have been declared by the Fire District or County Fire Marshal.

**Sec. 7-78. - Riding of animals in public parks prohibited.**

It shall be unlawful for any person to ride or lead any horse or other livestock in any public park, recreational area or trail except upon paths or other ways expressly provided and posted for that purpose.

**Sec. 7-79. - Mobile vendors and peddlers.**

It is unlawful to offer any goods, services or things for sale within parks, walkways or recreational facilities, or on the streets and sidewalks within three hundred (300) feet of the boundary of the same, without first having obtained a license or permit to do so as provided for under Section 5-71.

**Sec. 7-80. - Vehicles prohibited on trails.**

It shall be unlawful to operate any vehicles, motorized and nonmotorized, and mountain bikes on trails where marked prohibited.

**Sec. 7-81. - Shooting prohibited.**

It shall be unlawful to discharge any firearm on park land. Firearms shall include any pistol, revolver, rifle, shotgun, air gun, gas-operated gun, spring gun, B-B gun or other such type of device or any device capable of propelling a projectile.

**Sec. 7-82. - Alcoholic beverages.**

(a) It is unlawful for any person to consume or sell alcoholic liquor or beverages in any park at any time except where authorized by a special events permit.

**Sec. 7-83. - Penalty.**

The penalty fines for violations existing within this Section shall be in accordance with Section 1-42 of this Code.

**Secs. 7-84—7-100. - Reserved**

**ARTICLE V - Public Land.**

**Sec. 7-101. - Factors to be considered in granting easements.**

The following factors shall be considered in review by the Town of any request for an easement for use of public lands. Said factors shall not be exclusive, however:

- (1) Conformation with the Town Comprehensive Plan;
- (2) Adverse effects to the Town if an easement is granted;
- (3) Benefits to the Town if an easement is granted.

No decision by the Town to grant any said easement shall be controlling on any subsequent request for similar grants of public land.

**Sec. 7-102. - Reasons for granting of easement.**

The following reasons for granting of said easement shall be deemed sufficient justification for such grant;

- (1) Compensation due and payable to the Town for use;
- (2) Assistance to property owners who do not have clear title to their land due to an encroachment of their property upon public land and which purchase of said public property is not considered a feasible alternative by the Planning Commission and Board of Trustees;
- (3) Service of the health, safety and welfare of the inhabitants of the Town, or alternatively, lack of detriment or harm to the health, safety and welfare of the inhabitants of the Town.

**Sec. 7-103. - Factors to be considered in sale of public land.**

The following factors shall be considered in review by the Town of any request to purchase public lands. Said factors shall not be exclusive, however:

- (1) Conformation with the Town Comprehensive Plan;
- (2) Adverse effects to the Town if property is sold;
- (3) Benefits to the Town if property is sold.

No decision by the Town to sell any public land shall be controlling on any subsequent request for sale of public land.

**Sec. 7-104. - Reasons for sale.**

The following reasons for sale of public land shall be deemed sufficient justification for such sale;

- (1) Reduction in Town liability;
- (2) Increase in tax base;
- (3) Assistance to property owners who do not have clear title to their land due to an encroachment of their property upon public land.

**Sec. 7-105. - Determination of fair market value for purchase.**

The fair market value for public land may be determined by the Board of Trustees on an annual basis. Said value shall be based upon the average square footage price of undeveloped but developable lots located within the boundaries of the Town. Said fair market value shall be applied to the sale of any public land, unless the Board of Trustees determines, after hearing evidence from the petitioning party, that said value is not appropriate in the case of a specific proposed purchase. If the petitioning party wishes the application of any other square footage price petitioning party shall bear any costs incurred in determining said applicable price.

**Sec. 7-106—7-120. - Reserved.**

## CHAPTER 8 - Vehicles and Traffic

### ARTICLE I - Model Traffic Code

#### Sec. 8-1. - Adoption.

Pursuant to ~~Parts 1 through 16, inclusive, C.R.S. § 31-15-103, and Parts 18 and 19 of Article 16 of Title 31 and Part 4 of Article 15 of Title 30, C.R.S. § 31-16-201, et seq.,~~ there is hereby adopted by reference the ~~2010~~2020 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, CO 80222, ~~as amended by Section 8-2 below.~~ The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. ~~The purpose of this Article and the Code adopted herein is to provide a system of traffic regulations generally conforming to similar regulations throughout the State and the nation. One (1) copy of the Model Traffic Code adopted herein shall be filed in the office of the Town Clerk and may be inspected during regular business hours.~~

(Ord. 01-2012 §1)

#### Sec. 8-2. - ~~Deletions~~Amendments.

The ~~2010~~2020 edition of the Model Traffic Code is adopted as if set out at length save and except the following ~~articles and/or sections which are declared to be inapplicable to this municipality and are therefore expressly deleted:~~ Part 17, Penalties and Procedures ~~additions, deletions or modifications;~~

(Ord. 01-2012 §1)a)

#### ~~Sec. 8-3. - Additions or modifications.~~

Section 1101(2) is ~~amended~~modified to read as follows:

"Speed limits within the Town are set at 25 mph on Ute Pass Avenue and Green Mountain Falls Road and 20 mph on all other streets unless otherwise posted, as defined in Section 8-~~54~~ of the Green Mountain Falls Municipal Code."

(Ord. 01-2012 §1)

(b) Part 17, Penalties and Procedures is deleted in its entirety.

#### Sec. 8-~~43~~. - Application.

This Article shall apply to every street, alley, sidewalk area, driveway and park and to every other public way, public place or public parking area, either within or outside the corporate limits of this municipality, the use of which this municipality has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413 and Part 16 of the ~~adopted~~ Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer and accidents and accident reports shall apply not only to public places and ways but also throughout this municipality.

(Ord. 03-2003 §5)

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**~~Sec. 8-5. 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 Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provision of any article or section thereof.~~

~~(Ord. 03-2003 §8)~~

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**~~Sec. 8-6. Certification.~~**

~~The Town Clerk shall certify to the passage of the ordinance codified herein and make not less than three (3) copies of the adopted code available for inspection by the public during regular business hours.~~

~~(Ord. 03-2003 §9)~~

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**~~Sec. 8-7. Four way stop signs; Hotel Street and Ute Pass Avenue.~~**

~~(a) Four way stop signs shall be installed at the intersection of Hotel Street and Ute Pass Avenue in the Town and traffic shall be regulated and controlled by said stop signs. All vehicles shall be required to stop at the intersection of Hotel Street and Ute Pass Avenue before proceeding.~~

~~(b) The Maintenance Department and the Marshal's Department shall be and hereby are directed to cooperate in the installation and maintenance of said stop signs, and the Marshal's Department is hereby directed to enforce the lawful requirement that vehicles stop at the intersection of Hotel Street and Ute Pass Avenue prior to proceeding through said intersection.~~

~~(Ord. 6-1982)~~

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**~~Sec. 8-8. - Speed limits for all streets.~~**

~~(a) Speed limits within the Town shall be set at 25 mph on Ute Pass Avenue and Green Mountain Falls Road and 20 mph on all other streets, unless otherwise posted.~~

~~(b) Signs containing the general speed limit of 2520 mph shall be placed at both entrances to the Town.~~

~~(Ord. 9-1988)~~

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**~~Sec. 8-95. - Civil and criminal violations, right to jury trial, and penalties.~~**

~~(a) (a) It is unlawful for any person to violate any of the provisions of this Chapter or of the Model Traffic Code for Colorado, as adopted by the Town of Green Mountain Falls. It is a criminal traffic offense for any person to violate any of the following provisions of the 2010 Edition of the Model Traffic Code for Colorado as adopted, and from time to time modified, by the Town of Green Mountain Falls, where the offense is deemed a misdemeanor traffic offense under the Model Traffic Code or by counterpart State law.~~

~~(1) When the person is arrested and charged with an offense under this code causing or contributing to an accident resulting in injury or death to any person;~~

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(2) ~~When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injuries, or damage to property;~~

(3) ~~Reckless driving;~~

(4) ~~Exceeding the speed limit by more than twenty-four (24) miles per hour;~~

(5) ~~Exhibition of speed or speed contest;~~

(6) ~~In any other event when the provisions of Part 17 of the 2010 Edition of the Model Traffic Code for Colorado apply and the person arrested refuses to give his or her written promise to appear in court as provided in Section 1707.~~

(b) ~~Except for those violations classified as criminal traffic offenses pursuant to Subsection (a) of this Section, all violations of this Chapter or of the 2010 Edition Model Traffic Code for Colorado, as adopted by the Town of Green Mountain Falls, are hereby classified as noncriminal traffic infractions which shall be deemed to be civil matters. The Colorado Municipal Court Rules of Procedure shall apply to proceedings in which the defendant is charged with such noncriminal traffic infractions, 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. Instead, the court may enter a judgment of liability by default against the defendant for any such failure to appear; assess any penalty and costs established by law; and report the judgment to the Colorado Department of Revenue, Motor Vehicle Division, which may assess points against the defendant's driving privileges and may deny an application for or renewal of the defendant's driver's license until the judgment and all other lawful costs are satisfied. Further, no writ of mittimus shall issue where the only basis for the fine and costs imposed was the finding of guilty or liability for a noncriminal traffic infraction.~~

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(c) ~~Any defendant charged with a criminal traffic offense, as defined in Subsection (a) of this Section, shall have the right to demand a trial by jury upon compliance with the provisions of Colorado law and the Colorado Municipal Court Rules of Procedure, except no such right to a jury trial shall exist if the prosecutor indicates in writing that the Town will not seek imposition of a jail sentence in connection with the matter.~~ No defendant shall have a right to a trial by jury for any noncriminal traffic infraction, as defined in Subsection (b) of this Section. In the event that a defendant is charged with more than one (1) traffic violation arising out of the same incident and at least one (1) of the charged violations is listed in Subsection (a) of this Section, the defendant shall have the right to demand a trial by jury as to all such offenses, which shall be consolidated for purposes of trial, ~~except no such right to a jury trial shall exist if the prosecutor indicates in writing that the Town will not seek imposition of a jail sentence in connection with any of the violations involved in the matter.~~

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(d) ~~Penalties.~~

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(1) ~~Any person convicted of a criminal traffic offense, as defined in Subsection (a) of this Section, shall be punished by a fine not exceeding two thousand six hundred and fifty dollars (\$2,650.00), or by imprisonment for not more than ninety (90) days exceeding one year, or by both such fine and imprisonment;~~

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(2) ~~Any person admitting liability for, found to have committed, or against whom a default judgment has been entered for any noncriminal traffic infraction, as defined in Subsection (b) of this Section, shall be fined in an amount not exceeding two thousand six hundred and fifty-nine dollars (\$2,650.00). The Board of Trustees may set and amend specific fines by resolution. No defendant found to have committed any noncriminal traffic infraction shall be punished by imprisonment for such infraction.~~

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(e) ~~Costs and surcharges. The Town of Green Mountain Falls assesses the following court costs and surcharges upon each conviction, admission of liability for, finding of guilt of, or entry of default judgment for any offense as defined in Subsections (a) or (b) of this Section:~~

<del>Court cost per appearance:</del>	<del>\$30.00</del>
<del>Surcharge per offense:</del>	<del>\$20.00</del>

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(f) ~~Penalty assessment schedule. The Town of Green Mountain Falls establishes the minimum fines for each of the following violations, excluding the additions of costs and surcharges, as follows:~~

<del>Speeding 10-19 over</del>	<del>\$125.00</del>
<del>Speeding 20+ over</del>	<del>\$200.00</del>
<del>Careless driving</del>	<del>\$125.00</del>
<del>Failure to stop at a stop sign</del>	<del>\$ 75.00</del>
<del>Seat belts (18 or older)</del>	<del>\$ 55.00</del>
<del>Seat belt (under 18)</del>	<del>\$ 75.00</del>
<del>Compulsory insurance</del>	<del>\$500.00</del>

-

(g) ~~The amounts set forth above in (d), (e), and (f) of this Section may be adjusted from time to time by resolution duly adopted by the Board of Trustees.~~

~~(Ord. 01-2012 §1; Ord. No. 12-15-2015A, § 1, 12-15-2015)~~

~~Editor's note — Ord. No. 12-15-2015A, § 1, adopted Dec. 15, 2015, changed the title of § 8-9 from "Penalties" to read as herein set out.~~

~~Secs. 8-106 — 8-20. - Reserved.~~

~~ARTICLE II - Abandoned and~~ **Junked Vehicles on Private Property,**

**Sec. 8-21. - Definitions.**

The following definitions shall apply in the interpretation of this Article:

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*Junk vehicle* means any of the following:

- a. — ~~Any inoperable motorized vehicle;~~
- b. — ~~Any nonmotorized vehicle which is not capable of highway travel in connection with its normal power source; or~~
- c. — ~~Any vehicle not bearing current license plates, unless exempt from registration, to be consistent with State statutes regarding licensing and registration.~~

~~Person means any person, firm, partnership, association or corporation.~~

~~Property. Private property~~ means any real property within the incorporated limits of the Town which is not a street ~~or~~ highway ~~or public property of the Town, federal government, county, or state,~~

*Vehicle* means a machine propelled or pulled by power other than human power designed to travel along the ground by use of wheels, treads, tracks, runners or slides and ~~shall include, includes~~ without limitation, an automobile, truck, motorcycle, tractor, field machinery, bus, camper, utility and travel trailer, bulldozer, earth moving or compacting equipment, backhoe or truck bed/box.

~~(Ord. 1-1988 §2)~~

**Sec. 8-22. ~~Abandoned vehicles.~~**

~~No person shall abandon any vehicle within the Town and no person shall leave any vehicle at any place within the Town and for such time or under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.~~

~~(Ord. 1-1988 §3)~~

**Sec. 8-23. ~~Junk vehicles on street.~~**

~~No person shall leave any junk vehicle on any street or highway within the Town.~~

~~(Ord. 1-1988 §4)~~

**Sec. 8-24. ~~Junk vehicles on property.~~**

~~No person in charge or control of any property within the Town, whether as owner, tenant, occupant, lessee or otherwise, shall allow any junk vehicle to remain on such property longer than thirty (30) days; except that this Section shall not apply with regard to a vehicle within an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place maintained in a lawful manner by the Town.~~

~~(Ord. 1-1988 §5)~~

**Sec. 8-25. ~~Filling stations and garages.~~**

~~Repair or dismantling of automobiles and other vehicles and storing of parts and accessories thereto shall be permitted as an accessory use to filling stations and garages only when such repairing or dismantling is conducted within an entirely enclosed building.~~

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~~(Ord. 1-1988 §6)~~

**Sec. 8-2624. - Collector's items.**

Vehicles defined as collector's items by Section C.R.S. § 42-15-101, C-R-Set seq., shall be allowed, subject to the limitation that no more than one (1) vehicle so defined which has not been rebuilt shall be kept outside of a building on any property.

~~(Ord. 1-1988 §7)~~

**Sec. 8-~~27~~25. - Notice of violation.**

Before a summons and complaint may be issued for violations of this Article, the Town Marshal shall deliver a notice to the occupant and owner of the private property, requesting removal of the junk/abandoned vehicle from the property within thirty (30) days. If the junk/abandoned vehicle is not removed within thirty (30) days, both the owner and the occupant of the property may be issued a summons and complaint for violation of this SectionArticle. Delivery of the notice may be in person or by certified mail, return receipt requested, addressed to the owner or occupant at his-or hertheir last known address, effective upon mailing.

~~(Ord. 1-1988 §8)~~

**Sec. 8-~~28~~26. - Impoundment.**

After proper notice as provided in ~~Section 8-27~~ above, the Town ~~Marshal~~ is authorized to remove or have removed any vehicle left any place in the Town which reasonably appears to be in violation of this Article. All costs incurred by such impoundment, including towing expenses, shall be the responsibility of the owner and occupant of the property. If such costs are not paid after billing, the Town may place a lien against the property upon which the junk/abandoned vehicle was stored for the amount of any costs the Town has incurred. Such lien shall remain against the property and may be foreclosed through court at the option of the Town.

~~(Ord. 1-1988 §9)~~

**Secs. 8-2927—8-40. - Reserved.**

### ARTICLE III – Parking

**Sec. 8-41. - Purpose.**

This Article is enacted in response to the serious adverse effects caused in certain areas and neighborhoods of the Town by motor vehicle congestion, particularly parking of motor vehicles on the streets of such areas and neighborhoods by nonresidents who do not visit or conduct business with residents. In order to protect these areas and neighborhoods, it is necessary to enact parking regulations restricting parking by nonresidents, while providing the opportunity for residents to park and do business near their homes.

**Sec. 8-42. - Definitions.**

[illegible]

The following definitions shall apply in the interpretation of this Article:

One-day visitor permit means a permit issued under this Article that is valid for one 24-hour period, whose owner or principal operator may not reside within the Town.

Parking permit means either a residential parking permit issued to residents of the Town pursuant to this Article, or a one-day visitor permit issued pursuant to this Article.

Public street means any road, street, or similar facility under the jurisdiction of and maintained by a public agency and open to public travel.

Residential parking permit means a parking permit issued under this Article to a vehicle whose owner or principal operator resides within the Town.

Area marked for residential parking means an area designated pursuant to **Section 8-43** of this Article.

Vehicle means a machine propelled or pulled by power other than human power designed to travel along the ground by use of wheels, treads, tracks, runners or slides and shall include, without limitation, an automobile, truck, motorcycle, tractor, field machinery, bus, camper, utility and travel trailer, bulldozer, earth moving or compacting equipment, backhoe or truck bed/box.

**Sec. 8-43. – Residential Parking Permit Issuance.**

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(a) The Town shall issue residential parking permits to residents upon application to the Town Clerk and for a fee established by resolution of the Board of Trustees. The application shall require, at a minimum, the name of the owner or operator of the vehicle to be permitted, the residential address of the owner or operator of the vehicle to be permitted, the owner or operator's state driver's license number, and the vehicle make, model and license plate number. The applicant shall provide proof of residency as required by the Town Clerk.

(b) Residential parking permits shall be issued specific to a vehicle listed on the application to the Town Clerk. To be valid, each residential parking permit shall be permanently adhered to the inside bottom driver side corner of the windshield of the vehicle to which the residential parking permit is registered. A residential parking permit that is not permanently adhered shall not be a valid permit.

(c) There shall be no limit to the number of residential parking permits issued to a residence, provided that no residential parking permit shall be issued for a vehicle whose owner or principal operator does not reside at the residence.

(d) An applicant may obtain a replacement residential parking permit in the same manner and for the same fee as the original residential permit upon providing evidence satisfactory to the Town Clerk that the original permit has been lost or destroyed.

(e) Each residential parking permit issued by the Town shall be valid for one year from the date of issuance by the Town Clerk.

**Sec. 8-44. – One-Day Visitor Permit Issuance.**

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(a) The Town shall issue one-day visitor permits to residents upon application to the Town Clerk and for a fee established by resolution of the Board of Trustees. The application shall require, at a minimum, the name of the resident requesting the one-day visitor permit and the residential address of the resident requesting the one-day visitor permit. The applicant shall provide proof of residency as required by the Town Clerk.

(b) One-day visitor permits shall be issued to residents and are intended for use by guests of residents. One-day visitor permits are not specific to a vehicle upon issuance. However, to be valid, each one-day visitor permit shall be fully filled out in ink or permanent marker and displayed inside the vehicle dashboard so that the permit is easily visible and decipherable from outside the vehicle. A one-day visitor permit that does not provide all required information or that is displayed improperly shall not be a valid permit.

(c) Each residence is limited to five (5) packs of one-day visitor permits per calendar year, with each pack containing twenty (20) blank permits.

(d) Each blank one-day visitor permit issued by the Town shall be valid for one year from the date of issuance by the Town Clerk. Once filled out by the resident or guest and placed into use, each one-day visitor permit shall be valid for one 24-hour period.

#### **Sec. 8-45. – Residential Street Parking.**

(a) It is unlawful for any person to park a vehicle on any public street in an area marked for residential parking without displaying a valid parking permit issued by the Town authorizing the vehicle to be parked in that area. In addition to any other requirements of this Article, a parking permit must be current, displayed at all pertinent times the vehicle is parked, and visible from the roadway for the parking tag to be deemed valid.

(b) The Town Manager shall direct the installation of all necessary signage or pavement markings to establish the residential areas in which this Section shall apply.

(c) The following are exempt from the requirements of this Section:

(1) A vehicle owned by or operated under contract to a utility and in actual use in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work;

(2) A vehicle that is owned by or operated under contract to a federal, state, or local governmental agency and was being used in the course of official government business;

(3) An authorized emergency vehicle; and

(4) A motor vehicle used for delivery or service business purposes, including without limitation vehicles such as moving vans and sanitation, repair, electrical and plumbing service vehicles, while conducting business.

#### **Sec. 8-46. – Designation of Area to be Marked for Residential Parking.**

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(a) The Board of Trustees shall designate by ordinance those residential areas within the Town with chronic parking problems as areas to be marked for residential parking.

(b) The Board of Trustees, in making a determination of designation under this Section, shall consider the following criteria:

(1) The extent to which vehicles parking in the area are vehicles displaying out of state or out of town license plates indicating that the vehicle belongs to a nonresident of the Town;

(2) The extent to which residents cannot obtain adequate public street parking adjacent to or near their residences because of widespread use of parking spaces by out of town vehicles;

(3) The effect on the health, safety, and welfare of the residents along the public street from intensive use of the residential public street, including increased polluted air, excessive noise, trash, and refuse caused by the entry and exit of non-resident vehicles;

(4) The deterioration of the residential environment as a result of traffic congestion and insufficient parking in the area, including detriment to the natural rural mountain character of such residential areas and neighborhoods and increased hazard to children and other pedestrians;

(5) The extent that the designation of a residential parking permit area would be likely to reduce traffic congestion and any other problems identified in this Section; and

(6) Evidence of support of the residents in the proposed area to be marked for residential parking for the institution of a residential parking permit system and the willingness of those residents to bear the costs incidental to the issuance of permits authorized by this Article.

(c) As soon as practicable following the adoption of an ordinance designating or extending a residential parking permit area, the Town Clerk shall mail to the occupant of every address within the area to be marked for residential parking a written notice containing the following information:

(1) The existence and boundaries of the area to be marked for residential parking;

(2) The parking restrictions applicable to all vehicles on public streets in the designated area;

(3) The effective date of the ordinance; and

(4) The procedures and associated fees to obtain parking permits.

**Sec. 8-47. – Parking in Private Driveway or on Private Property.**

It is unlawful for any person to park or stand a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading, in a private

driveway or on private property without the express consent of the owner or person in lawful possession of such driveway or property.

**Sec. 8-48. – Metered Parking.**

(a) It is unlawful for any person to park a vehicle in any Town-owned or Town-controlled on or off-street, paid or permit-required parking lot or parking space at any time without immediately depositing or causing to be deposited payment in the parking meter for the time used during the applicable hours of operation and on the applicable days of operation of such parking meter, as indicated by the sign accompanying such parking meter, or without displaying a valid residential parking permit authorizing such vehicle to be parked at the location. In addition to any other requirements of this Article, a parking permit must be current, displayed at all pertinent times the vehicle is parked, and visible from the roadway for the parking tag to be deemed valid.

(b) Vehicles displaying a valid residential parking permit may be parked in a Town-owned or Town-controlled on or off-street paid parking lot or parking space without paying the meter. One-day visitor parking permits remain subject to the requirements of this Section and must observe all requirements when parking in any Town-owned or Town-controlled on or off-street paid parking lot or parking space.

(c) Parking meters shall display the dates and times that parking restrictions are in place and shall display the hourly or daily charges which are reasonably necessary to defray the expenses incurred incident to this Article.

(d) The Town Manager shall direct the installation of all parking meters and all necessary signage or pavement markings to establish the areas in which this Section shall apply, as follows:

(1) Official signs indicating that parking is restricted in a Town-owned or Town-controlled on or off-street parking lot shall be posted at each entrance to the parking lot.

(2) Official signs indicating that parking is restricted in Town-owned or Town-controlled on or off-street parking spaces shall be posted where practicable to give notice of the restricted area. Official signs with double arrows shall be posted at intermediate points within the restricted area indicating the extent of the restricted area.

(e) The following are exempt from the requirements of this Section:

(1) A vehicle owned by or operated under contract to a utility and in actual use in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work;

(2) A vehicle that is owned by or operated under contract to a federal, state, or local governmental agency and was being used in the course of official government business;

(3) An authorized emergency vehicle; and

(4) A motor vehicle used for delivery or service business purposes, including without limitation vehicles such as moving vans and sanitation, repair, electrical and plumbing service vehicles, while conducting business.

**Sec. 8-49. – Duplication of Parking Permits Prohibited.**

It is unlawful for any person to duplicate or attempt to duplicate by any means a parking permit issued pursuant to this Article. It is a violation of this Article for any person to display on any motor vehicle a duplicate parking permit.

**Sec. 8-50. - Effect of Issuance of Parking Permit.**

A parking permit issued pursuant to this Article does not excuse compliance with any other provisions of applicable law relating to parking, including without limitation restricted parking for persons with disabilities. A parking permit shall not guarantee or reserve a parking space within an area marked for residential parking. A permit issued pursuant to this Article shall not authorize the standing or parking of any vehicle in any place or during any time when the stopping, standing or parking of vehicles is prohibited or set aside for specified vehicle types. The issuance of a parking permit shall not excuse the observance of any traffic regulation.

**Sec. 8-51. – Impoundment.**

The Town is authorized to remove or have removed any vehicle left any place in the Town which reasonably appears to be in violation of this Article. All costs incurred by such impoundment, including towing expenses, shall be the responsibility of the owner and occupant of the property.

**Sec. 8-52. – Violations; Penalty.**

(a) It is unlawful for any person to fail to comply with the terms of this Article. Violations shall constitute a civil offense punishable by one or more of the following penalties:

- (1) Loss of parking permit privileges;
- (2) Impoundment of the vehicle;
- (3) Termination of the right to receive residential parking permits in the future; and
- (4) A fine not to exceed four hundred ninety-nine dollars (\$499.00).

(b) Each separate act in violation of this Article, and each and every day or portion thereof during which any separate act in violation of this Article is committed, continued, or permitted, shall be deemed a separate offense.

(c) Any remedies provided for in this Article shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

## **CHAPTER 8 - Vehicles and Traffic**

### **ARTICLE I - Model Traffic Code**

#### **Sec. 8-1. - Adoption.**

Pursuant to C.R.S. § 31-15-103 and C.R.S. § 31-16-201, *et seq.*, there is hereby adopted by reference the 2020 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, CO 80222, as amended by Section 8-2 below. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the Code adopted herein is to provide a system of traffic regulations generally conforming to similar regulations throughout the State and the nation. One (1) copy of the Model Traffic Code adopted herein shall be filed in the office of the Town Clerk and may be inspected during regular business hours.

#### **Sec. 8-2. - Amendments.**

The 2020 edition of the Model Traffic Code is adopted as if set out at length save and except the following additions, deletions or modifications:

- (a) Section 1101(2) is modified to read as follows:

"Speed limits within the Town are set at 25 mph on Ute Pass Avenue and Green Mountain Falls Road and 20 mph on all other streets unless otherwise posted, as defined in Section 8-4 of the Green Mountain Falls Municipal Code."

- (b) Part 17, Penalties and Procedures is deleted in its entirety.

#### **Sec. 8-3. - Application.**

This Article shall apply to every street, alley, sidewalk area, driveway and park and to every other public way, public place or public parking area, either within or outside the corporate limits of this municipality, the use of which this municipality has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413 and Part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer and accidents and accident reports shall apply not only to public places and ways but also throughout this municipality.

#### **Sec. 8-4. - Speed limits for all streets.**

- (a) Speed limits within the Town shall be set at 25 mph on Ute Pass Avenue and Green Mountain Falls Road and 20 mph on all other streets, unless otherwise posted.

- (b) Signs containing the general speed limit of 20 mph shall be placed at both entrances to the Town.

#### **Sec. 8-5. - Civil and criminal violations, right to jury trial, and penalties.**

- (a) It is unlawful for any person to violate any of the provisions of this Chapter or of the Model Traffic Code for Colorado, as adopted by the Town of Green Mountain Falls. It is a criminal traffic offense for any person to violate any of the provisions of the Model Traffic Code for Colorado as adopted, and from time to time modified, by the Town of Green Mountain Falls, where the offense

is deemed a misdemeanor traffic offense under the Model Traffic Code or by counterpart State law.

(b) Except for those violations classified as criminal traffic offenses pursuant to Subsection (a) of this Section, all violations of this Chapter or of the Model Traffic Code for Colorado, as adopted by the Town of Green Mountain Falls, are hereby classified as noncriminal traffic infractions which shall be deemed to be civil matters. The Colorado Municipal Court Rules of Procedure shall apply to proceedings in which the defendant is charged with such noncriminal traffic infractions, 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. Instead, the court may enter a judgment of liability by default against the defendant for any such failure to appear; assess any penalty and costs established by law; and report the judgment to the Colorado Department of Revenue, Motor Vehicle Division, which may assess points against the defendant's driving privileges and may deny an application for or renewal of the defendant's driver's license until the judgment and all other lawful costs are satisfied. Further, no writ of mittimus shall issue where the only basis for the fine and costs imposed was the finding of guilty or liability for a noncriminal traffic infraction.

(c) Any defendant charged with a criminal traffic offense, as defined in Subsection (a) of this Section, shall have the right to demand a trial by jury upon compliance with the provisions of Colorado law and the Colorado Municipal Court Rules of Procedure. No defendant shall have a right to a trial by jury for any noncriminal traffic infraction, as defined in Subsection (b) of this Section. In the event that a defendant is charged with more than one (1) traffic violation arising out of the same incident and at least one (1) of the charged violations is listed in Subsection (a) of this Section, the defendant shall have the right to demand a trial by jury as to all such offenses, which shall be consolidated for purposes of trial.

(d) Penalties.

(1) Any person convicted of a criminal traffic offense, as defined in Subsection (a) of this Section, shall be punished by a fine not exceeding two thousand six hundred and fifty dollars (\$2,650.00), or by imprisonment not exceeding one year or by both such fine and imprisonment;

(2) Any person admitting liability for, found to have committed, or against whom a default judgment has been entered for any noncriminal traffic infraction, as defined in Subsection (b) of this Section, shall be fined in an amount not exceeding four hundred and ninety-nine dollars (\$499.00). The Board of Trustees may set and amend specific fines by resolution. No defendant found to have committed any noncriminal traffic infraction shall be punished by imprisonment for such infraction.

**Secs. 8-6—8-20. - Reserved.**

## **ARTICLE II - Junked Vehicles on Private Property**

### **Sec. 8-21. - Definitions.**

The following definitions shall apply in the interpretation of this Article:

*Junk vehicle* means any of the following:

- a. Any inoperable motorized vehicle;



- b. Any nonmotorized vehicle which is not capable of highway travel in connection with its normal power source; or
- c. Any vehicle not bearing current license plates, unless exempt from registration, to be consistent with State statutes regarding licensing and registration.

*Private property* means any real property within the incorporated limits of the Town which is not a street, highway, or public property of the Town, federal government, county, or state.

*Vehicle* means a machine propelled or pulled by power other than human power designed to travel along the ground by use of wheels, treads, tracks, runners or slides and includes without limitation an automobile, truck, motorcycle, tractor, field machinery, bus, camper, utility and travel trailer, bulldozer, earth moving or compacting equipment, backhoe or truck bed/box.

**Sec. 8-22. - Junk vehicles on private property.**

No person in charge or control of any property within the Town, whether as owner, tenant, occupant, lessee or otherwise, shall allow any junk vehicle to remain on such property longer than thirty (30) days; except that this Section shall not apply with regard to a vehicle within an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place maintained in a lawful manner by the Town.

**Sec. 8-23. - Filling stations and garages.**

Repair or dismantling of automobiles and other vehicles and storing of parts and accessories thereto shall be permitted as an accessory use to filling stations and garages only when such repairing or dismantling is conducted within an entirely enclosed building.

**Sec. 8-24. - Collector's items.**

Vehicles defined as *collector's items* by C.R.S. § 42-15-101, *et seq.*, shall be allowed, subject to the limitation that no more than one (1) vehicle so defined which has not been rebuilt shall be kept outside of a building on any property.

**Sec. 8-25. - Notice of violation.**

Before a summons and complaint may be issued for violations of this Article, the Town shall deliver a notice to the occupant and owner of the private property, requesting removal of the junk vehicle from the property within thirty (30) days. If the junk vehicle is not removed within thirty (30) days, both the owner and the occupant of the property may be issued a summons and complaint for violation of this Article. Delivery of the notice may be in person or by certified mail, return receipt requested, addressed to the owner or occupant at their last known address, effective upon mailing.

**Sec. 8-26. - Impoundment.**

After proper notice as provided in **Section 8-25 above**, the Town is authorized to remove or have removed any vehicle left any place in the Town which reasonably appears to be in violation of this Article. All costs incurred by such impoundment, including towing expenses, shall be the responsibility of the owner and occupant of the property. If such costs are not paid after billing, the Town may place a lien against the property upon which the junk/abandoned vehicle was stored

for the amount of any costs the Town has incurred. Such lien shall remain against the property and may be foreclosed through court at the option of the Town.

**Secs. 8-27—8-40. - Reserved.**

### **ARTICLE III – Parking**

#### **Sec. 8-41. - Purpose.**

This Article is enacted in response to the serious adverse effects caused in certain areas and neighborhoods of the Town by motor vehicle congestion, particularly parking of motor vehicles on the streets of such areas and neighborhoods by nonresidents who do not visit or conduct business with residents. In order to protect these areas and neighborhoods, it is necessary to enact parking regulations restricting parking by nonresidents, while providing the opportunity for residents to park and do business near their homes.

#### **Sec. 8-42. - Definitions.**

The following definitions shall apply in the interpretation of this Article:

*One-day visitor permit* means a permit issued under this Article that is valid for one 24-hour period, whose owner or principal operator may not reside within the Town.

*Parking permit* means either a residential parking permit issued to residents of the Town pursuant to this Article, or a one-day visitor permit issued pursuant to this Article.

*Public street* means any road, street, or similar facility under the jurisdiction of and maintained by a public agency and open to public travel.

*Residential parking permit* means a parking permit issued under this Article to a vehicle whose owner or principal operator resides within the Town.

*Area marked for residential parking* means an area designated pursuant to **Section 8-46** of this Article.

*Vehicle* means a machine propelled or pulled by power other than human power designed to travel along the ground by use of wheels, treads, tracks, runners or slides and shall include, without limitation, an automobile, truck, motorcycle, tractor, field machinery, bus, camper, utility and travel trailer, bulldozer, earth moving or compacting equipment, backhoe or truck bed/box.

#### **Sec. 8-43. – Residential Parking Permit Issuance.**

(a) The Town, or its authorized agent, shall issue residential parking permits to residents upon application to the Town Clerk or authorized agent and for a fee established by resolution of the Board of Trustees. The application shall require, at a minimum, the name of the owner or operator of the vehicle to be permitted, the residential address of the owner or operator of the vehicle to be permitted, the owner or operator's state driver's license number, and the vehicle make, model and license plate number. The applicant shall provide proof of residency as required by the Town Clerk.

(b) Residential parking permits shall be issued specific to a vehicle listed on the application to the Town Clerk. To be valid, each residential parking permit shall be permanently adhered to the inside bottom driver side corner of the windshield of the vehicle to which the residential parking permit is registered. A residential parking permit that is not permanently adhered shall not be a valid permit.

(c) There shall be no limit to the number of residential parking permits issued to a residence, provided that no residential parking permit shall be issued for a vehicle whose owner or principal operator does not reside at the residence.

(d) An applicant may obtain a replacement residential parking permit in the same manner and for the same fee as the original residential permit upon providing evidence satisfactory to the Town Clerk that the original permit has been lost or destroyed.

(e) Each residential parking permit issued by the Town shall be valid for one year from the date of issuance by the Town Clerk.

#### **Sec. 8-44. – One-Day Visitor Permit Issuance.**

(a) The Town shall issue one-day visitor permits to residents upon application to the Town Clerk and for a fee established by resolution of the Board of Trustees. The application shall require, at a minimum, the name of the resident requesting the one-day visitor permit and the residential address of the resident requesting the one-day visitor permit. The applicant shall provide proof of residency as required by the Town Clerk.

(b) One-day visitor permits shall be issued to residents and are intended for use by guests of residents. One-day visitor permits are not specific to a vehicle upon issuance. However, to be valid, each one-day visitor permit shall be fully filled out in ink or permanent marker and displayed inside the vehicle dashboard so that the permit is easily visible and decipherable from outside the vehicle. A one-day visitor permit that does not provide all required information or that is displayed improperly shall not be a valid permit.

(c) Each residence is limited to five (5) packs of one-day visitor permits per calendar year, with each pack containing twenty (20) blank permits.

(d) Each blank one-day visitor permit issued by the Town shall be valid for one year from the date of issuance by the Town Clerk. Once filled out by the resident or guest and placed into use, each one-day visitor permit shall be valid for one 24-hour period.

#### **Sec. 8-45. – Residential Street Parking.**

(a) It is unlawful for any person to park a vehicle on any public street in an area marked for residential parking without displaying a valid parking permit issued by the Town authorizing the vehicle to be parked in that area. In addition to any other requirements of this Article, a parking permit must be current, displayed at all pertinent times the vehicle is parked, and visible from the roadway for the parking tag to be deemed valid.

- (b) The Town Manager shall direct the installation of all necessary signage or pavement markings to establish the residential areas in which this Section shall apply.
- (c) The following are exempt from the requirements of this Section:
  - (1) A vehicle owned by or operated under contract to a utility and in actual use in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work;
  - (2) A vehicle that is owned by or operated under contract to a federal, state, or local governmental agency and was being used in the course of official government business;
  - (3) An authorized emergency vehicle; and
  - (4) A motor vehicle used for delivery or service business purposes, including without limitation vehicles such as moving vans and sanitation, repair, electrical and plumbing service vehicles, while conducting business.

**Sec. 8-46. – Designation of Area to be Marked for Residential Parking.**

- (a) The Board of Trustees shall designate by ordinance those residential areas within the Town as areas to be marked for residential parking.
- (b) The Board of Trustees, in making a determination of designation under this Section, shall consider the following criteria:
  - (1) The extent to which vehicles parking in the area are vehicles displaying out of state or out of town license plates indicating that the vehicle belongs to a nonresident of the Town;
  - (2) The extent to which residents cannot obtain adequate public street parking adjacent to or near their residences because of widespread use of parking spaces by out of town vehicles;
  - (3) The effect on the health, safety, and welfare of the residents along the public street from intensive use of the residential public street, including increased polluted air, excessive noise, trash, and refuse caused by the entry and exit of non-resident vehicles;
  - (4) The deterioration of the residential environment as a result of traffic congestion and insufficient parking in the area, including detriment to the natural rural mountain character of such residential areas and neighborhoods and increased hazard to children and other pedestrians;
  - (5) The extent that the designation of a residential parking permit area would be likely to reduce traffic congestion and any other problems identified in this Section; and
  - (6) Evidence of support of the residents in the proposed area to be marked for residential parking for the institution of a residential parking permit system and the

willingness of those residents to bear the costs incidental to the issuance of permits authorized by this Article.

(c) As soon as practicable following the adoption of an ordinance designating or extending a residential parking permit area, the Town Clerk shall mail to the occupant of every address within the area to be marked for residential parking a written notice containing the following information:

- (1) The existence and boundaries of the area to be marked for residential parking;
- (2) The parking restrictions applicable to all vehicles on public streets in the designated area;
- (3) The effective date of the ordinance; and
- (4) The procedures and associated fees to obtain parking permits.

**Sec. 8-47. – Parking in Private Driveway or on Private Property.**

It is unlawful for any person to park or stand a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading, in a private driveway or on private property without the express consent of the owner or person in lawful possession of such driveway or property.

**Sec. 8-48. – Metered Parking.**

(a) It is unlawful for any person to park a vehicle in any Town-owned or Town-controlled on or off-street, paid or permit-required parking lot or parking space at any time without immediately depositing or causing to be deposited an accepted form of payment for the time used during the applicable hours of operation and on the applicable days of operation of such parking meter, as indicated by the sign accompanying such parking meter, or without displaying a valid residential parking permit authorizing such vehicle to be parked at the location. In addition to any other requirements of this Article, a parking permit must be current, displayed at all pertinent times the vehicle is parked, and visible from the roadway for the parking tag to be deemed valid.

(b) Vehicles displaying a valid residential parking permit may be parked in a Town-owned or Town-controlled on or off-street paid parking lot or parking space without paying the meter. One-day visitor parking permits remain subject to the requirements of this Section and must observe all requirements when parking in any Town-owned or Town-controlled on or off-street paid parking lot or parking space.

(c) Parking meters shall display the dates and times that parking restrictions are in place and shall display the hourly or daily charges which are reasonably necessary to defray the expenses incurred incident to this Article.

(d) The Town Manager shall direct the installation of all parking meters and all necessary signage or pavement markings to establish the areas in which this Section shall apply, as follows:

- (1) Official signs indicating that parking is restricted in a Town-owned or Town-controlled on or off-street parking lot shall be posted at each entrance to the parking lot.
  - (2) Official signs indicating that parking is restricted in Town-owned or Town-controlled on or off-street parking spaces shall be posted where practicable to give notice of the restricted area. Official signs with double arrows shall be posted at intermediate points within the restricted area indicating the extent of the restricted area.
- (e) The following are exempt from the requirements of this Section:
- (1) A vehicle owned by or operated under contract to a utility and in actual use in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work;
  - (2) A vehicle that is owned by or operated under contract to a federal, state, or local governmental agency and was being used in the course of official government business;
  - (3) An authorized emergency vehicle; and
  - (4) A motor vehicle used for delivery or service business purposes, including without limitation vehicles such as moving vans and sanitation, repair, electrical and plumbing service vehicles, while conducting business.

**Sec. 8-49. – Duplication of Parking Permits Prohibited.**

It is unlawful for any person to duplicate or attempt to duplicate by any means a parking permit issued pursuant to this Article. It is a violation of this Article for any person to display on any motor vehicle a duplicate parking permit.

**Sec. 8-50. - Effect of Issuance of Parking Permit.**

A parking permit issued pursuant to this Article does not excuse compliance with any other provisions of applicable law relating to parking, including without limitation restricted parking for persons with disabilities. A parking permit shall not guarantee or reserve a parking space within an area marked for residential parking. A permit issued pursuant to this Article shall not authorize the standing or parking of any vehicle in any place or during any time when the stopping, standing or parking of vehicles is prohibited or set aside for specified vehicle types. The issuance of a parking permit shall not excuse the observance of any traffic regulation.

**Sec. 8-51. – Impoundment.**

The Town, or its authorized agent, is authorized to remove or have removed any vehicle left any place in the Town which reasonably appears to be in violation of this Article. All costs incurred by such impoundment, including towing expenses, shall be the responsibility of the owner and occupant of the property.

**Sec. 8-52. – Violations; Penalty.**

(a) It is unlawful for any person to fail to comply with the terms of this Article. Violations shall constitute a civil offense punishable by one or more of the following penalties:

- (1) Loss of parking permit privileges;
- (2) Impoundment of the vehicle;
- (3) Termination of the right to receive residential parking permits in the future; and
- (4) A fine not to exceed four hundred ninety-nine dollars (\$499.00).

(b) Each separate act in violation of this Article, and each and every day or portion thereof during which any separate act in violation of this Article is committed, continued, or permitted, shall be deemed a separate offense.

(c) Any remedies provided for in this Article shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

## **CHAPTER 10 - General Offenses \_**

### **ARTICLE I - General Provisions**

#### **Sec. 10-1. - Adopted.**

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., there is adopted by reference, in part, Title 18, C.R.S., officially approved, adopted and published by the State, of which one (1) copy is on file at the Town Hall and may be inspected during regular business hours, pursuant to the adopted ordinance, to wit: (Ord. 92-04 §1)

#### **Sec. 10-2. - Legislative purpose.**

It is the purpose of this Chapter to provide for the public health, safety and welfare of the Town.

#### **Sec. 10-3. - Local question.**

It is the intention of the Board of Trustees that the ordinances and provisions of this Chapter deal with matters of "local" and "mixed" state and local concern and that no provision of this Chapter is to be construed expressly or by implication to permit conduct that is illegal under the laws of the State or to prohibit conduct that is expressly permitted by the laws of the State. The provisions of this Chapter are to be construed to apply to misdemeanors and other minor and petty offenses only and are not to be interpreted to apply to conduct that is defined as a felony under the laws of the State.

#### **Sec. 10-4. - Irreconcilable ordinances.**

If the Board of Trustees enacts an ordinance that is irreconcilable with another provision of this Chapter, the ordinance whose effective date is latest prevails.

#### **Sec. 10-5. - Application of Code.**

(a) A person is subject to prosecution in Municipal Court for a violation committed through the conduct of such person or through the conduct of another for whom such person is legally accountable, if:

- (1) The conduct constitutes a violation and is committed either wholly or partly within the Town;
- (2) The conduct outside the Town constitutes an attempt, as defined by this Chapter, to commit a violation within the Town;
- (3) The conduct outside the Town constitutes a conspiracy to commit a violation within the Town, and an act in furtherance of the conspiracy occurs in the Town; or
- (4) The conduct within the Town constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction a violation prohibited under the laws of the Town and such other jurisdiction.

(b) Whether a violator is in or outside the Town is immaterial to the commission of a violation based on an omission to perform a duty imposed by the law of the Town.



(c) *Town*, as used in this Chapter and in any summons, summons and complaint or complaint alleging a violation of the Code or any ordinance, includes both the area within the territorial limits of the Town of Green Mountain Falls, Colorado, and also those areas over which extraterritorial police power has been granted by the statutes of this State. It is the intent of the Board of Trustees to extend the territorial jurisdiction of the Municipal Court as widely as possible. However, where specific sections of this Chapter require that the violation occur "within the Town," then the offense is limited to the territorial limits of the Town.

**~~Sec. 10-6. - Classification of violations.~~**

~~Violations of this Code shall be classified as misdemeanors, Class 1 petty offenses or Class 2 petty offenses.~~

**~~Sec. 10-7. - Violations.~~**

~~(a) The terms *crime, petty offense, offense, misdemeanor and violation*, as used in this Code or any uncodified ordinance, are synonymous. Any act or omission declared to be a violation or to be unlawful or required or prohibited by the phrase "no person shall," or similar mandatory language in or by this Code, any ordinance of the Town or any rule promulgated thereunder, constitutes a violation.~~

~~(b) Unless otherwise specifically provided in this Code, an ordinance of the Town or a rule promulgated thereunder, every day of a violation of this Code, ordinance or rule constitutes a separate violation.~~

**~~Sec. 10-68. - Statute of limitations.~~**

No person shall be prosecuted, tried or punished for any violation under this Code or any ordinance unless the action for said violation is instituted within one (1) year of the date of the alleged violation, but the statute of limitations within which a prosecution must be instituted shall be tolled for any period in which a prosecution is pending against the accused for the same conduct, even if the summons, complaint or summons and complaint that commence the prosecution are quashed or the proceedings thereon are set aside or reversed on appeal.

~~Secs. 10-0 - 10-20. - Reserved~~

**Sec. 10-725. - Violation and penalty.**

The penalty for violation of any provision of this Chapter is as set forth in Section 1-42 of this Code, subject to the following:

(a) A 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. Any restitution ordered by the Municipal Court shall be in addition to any such fine.

(b) The Municipal Court may award restitution to any victim of any action specified as unlawful in this Chapter and may order a person found or pleading guilty to any such violation to pay such restitution as ordered by the Municipal Court. Such restitution shall be determined by the submission of a bill of costs by the victim to the Municipal Court on a form approved by the Municipal Court. Authority is expressly granted to the Municipal Court to order such restitution for any and all costs incurred by public safety and/or emergency response agencies of the Town or

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other governmental or quasi-governmental entities in connection with the initial response to and all subsequent follow-up investigations of violations of this Chapter. Any restitution ordered by the Municipal Court shall be in addition to any fine and/or imprisonment authorized by this Code and shall likewise be applicable to any situation in which a deferred judgment or deferred sentence is accepted and/or imposed by the Municipal Court.

(c) The Municipal Court may order any person convicted of or pleading guilty to any violation of this Chapter to perform useful public service not exceeding 100 hours, which may be in addition to any other penalty imposed by the Municipal Court.

**Secs. 10-2109 — 10-20 - Reserved**

## **ARTICLE II - Offenses By or Against Public Officers and Government**

### **Sec. 10-21. - Definitions.**

As used in this Chapter, unless the context otherwise requires:

- (1) *Government* includes any branch, subdivision, institution or agency of the government of this Town.
- (2) *Governmental function* includes any activity which a public servant is legally authorized to undertake on behalf of a government.
- (3) *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.

### **Sec. 10-22. - Resisting arrest.**

(a) ~~A person commits resisting arrest~~It is unlawful to resist arrest by knowingly if he or she knowingly preventing or attemptings to prevent a peace officer, acting ~~under color of his or her official authority~~in the discharge of their duty, 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 bodily injury to the peace officer or another.

(b) It is no defense to prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if he or she was acting under color of his or her official authority and, in attempting to make the arrest, he or she 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, he or she 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.

~~(c) — Resisting arrest is a misdemeanor.~~

**Sec. 10-23. - ~~Interference with peace officers~~Obstructing peace officer, deputy-marshal, firefighter, emergency medical services provider, rescue specialist or volunteer.**

~~(a) — It shall be unlawful for any person in any way to interfere with or hinder any peace officer, marshal or deputy marshal while such person is discharging his or her duties.~~

~~(ab) A person commits obstructing a peace officer, marshal, firefighter, emergency medical service provider, rescue specialist or volunteer when, or fireman who, by using or threatening to use violence, force or physical interference or obstacle, he or she~~such person ~~knowingly obstructs, impairs or hinders the enforcement of the penal law or the preservation of peace by a peace officer, acting under color of his or her official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of a fire by a fireman, acting under color of his or her official authority any duty of the peace officer, marshal, firefighter, emergency medical services provider, rescue specialist or volunteer.~~

~~(be) It is no 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, as defined in Section 10-22(b) above.~~

~~(cd) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest.~~

~~(e) — Obstructing a peace officer is a misdemeanor.~~

**Sec. 10-24. — Duty to aid; rRefusing to aid a peace officer.**

~~(a) —~~

~~Is unlawful for a~~A ~~person eighteen (18) years of age or older commits a Class 1 petty offense when, to,~~ upon command by a person known to him or her to be a peace officer, ~~he or she~~ unreasonably refuses or fails to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense.

**Sec. 10-25. — Violation and penalty.**

~~The penalty for violation of any provision of this Chapter is as set forth in Section 1-4-20 of this Code, subject to the following:~~

~~(a) — A 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. Any restitution ordered by the Municipal Court shall be in addition to any such fine.~~

~~(b) — The Municipal Court may award restitution to any victim of any action specified as unlawful in this Chapter and may order a person found or pleading guilty to any such violation to pay such restitution as ordered by the Municipal Court. Such restitution shall be determined by the submission of a bill of costs by the victim to the Municipal Court on a form approved by the Municipal Court. Authority is expressly granted to the Municipal Court to order such restitution for any and all costs incurred by public safety and/or emergency response agencies of the Town or other governmental or quasi governmental entities in connection with the initial response to and all subsequent follow-up investigations of violations of this Chapter. Any restitution ordered by the Municipal Court shall be in addition to any fine and/or imprisonment authorized by this Code~~

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~~and shall likewise be applicable to any situation in which a deferred judgment or deferred sentence is accepted and/or imposed by the Municipal Court.~~

~~(e) The Municipal Court may order any person convicted of or pleading guilty to any violation of this Chapter to perform useful public service not exceeding 100 hours, which may be in addition to any other penalty imposed by the Municipal Court.~~

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#### **~~Sec. 10-25. Interference with firemen on duty.~~**

~~It shall be unlawful for any person to hinder, obstruct, oppose or interfere with any member of the Fire Department while he or she is in the performance of his or her duty.~~

#### **Sec. 10-256. - Compounding.**

(a) A person commits compounding if he or she accepts or agrees to accept any pecuniary benefit as consideration for:

- (1) Refraining from seeking prosecution of an offender; or
- (2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime.

~~(b) Compounding is a misdemeanor.~~

#### **Sec. 10-267. - Resisting an officer; assisting an escape; rescuing a prisoner.**

(a) It ~~shall be~~ unlawful for any person to resist any peace officer, marshal, deputy marshal, any member of the Marshal's Department or any person duly empowered with police authority while in the discharge or apparent discharge of his or her duty or in any way to interfere with or hinder him or her in the discharge of his or her duty.

(b) It ~~shall be~~ unlawful for any person to offer or endeavor to assist any person to escape or to attempt to escape from custody, or rescue or attempt to rescue any person in the custody of a peace officer, marshal, deputy marshal, member of the Marshal's Department or a person duly empowered with police authority. ~~to escape or to attempt to escape from custody.~~

~~(c) It shall be unlawful for any person to rescue or attempt to rescue any person in the custody of a peace officer, marshal, deputy marshal, a member of the Marshal's Department or a person duly empowered with police authority.~~

#### **Sec. 10-278. - False reporting to authorities.**

(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 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; or

(3) He or she 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.

~~(b) — False reporting to authorities is a misdemeanor.~~

**Sec. 10-289. - Interference with alarm system; false alarm.**

It ~~shall be is~~ unlawful for any person to damage or interfere with any fire alarm system or appliance or any part of the same. It ~~shall be is~~ unlawful for any person to make or give a false alarm of fire.

~~Sec. 10-30. - Duty of citizens to aid peace officers, deputy marshals.~~

~~It shall be the duty of all persons when called upon by a peace officer, marshal, deputy marshal or any other member of the Marshal's Department to promptly aid and assist such peace officer, marshal, deputy marshal or member in the discharge of his or her duties.~~

**Sec. 10-293. - Impersonating an officer, Town officer, or employee.**

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(a) It ~~shall be is~~ unlawful for any person other than an official marshal or deputy marshal of the Town to wear the uniform, apparel or any other insignia of office like, similar to or a colorable imitation of that adopted and worn by the official marshal or deputy marshals.

(b) It ~~shall be is~~ unlawful for any person to counterfeit, imitate or cause to be counterfeited, imitated or colorably imitated the uniform, apparel or insignia of office used by the Marshal's Department.

~~(c) Is is unlawful for any person other than an official marshal or deputy marshal of the Town to operate a motor vehicle adorned with lights, insignias, or symbols to imitate the official Town police/marshal vehicles.~~

~~Sec. 10-32. - Impersonating Town officers and employees.~~

~~(c) It shall be is~~ unlawful for any person to willfully, unlawfully or fraudulently represent himself or herself to be a Town officer or an employee of the Town and purporting to perform the duties of any such officer or employee when he or she is not an authorized officer or employee of the Town.

**Sec. 10-303. - Escapes.**

~~A person commits a Class 1 petty offense if~~ It is unlawful for any person, while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense, ~~he or she~~ to knowingly escapes from said custody or confinement.

**Sec. 10-314. - Interference with official function; entering or remaining on restricted Town premises.**

(a) It is unlawful for any person to intentionally, knowingly or recklessly interfere with, disrupt, hinder or impede the normal operation of or an official function of the Town, or any department or official thereof.

**~~Sec. 10-35. Entering or remaining on restricted Town premises.~~**

(b) It is unlawful for any person to enter or remain in or on premises of the Town which have been posted "Employees Only," "No Admittance" or similar notice without invitation or permission of an authorized employee of the Town.

**~~Sec. 10-36. Order to refrain from entering or for removal from Town premises.~~**

(c) It is unlawful for any person to remain in or on any premises of the Town or reenter any premises of the Town after the person has been ordered to remove himself or herself from the premises or to refrain from entering the premises by an employee of the Town. For purposes of this Section, the department head or employee on duty shall have the authority to issue an order for any person to remove himself or herself from the premises or to refrain from entering the premises.

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**Secs. 10-3 — 10-50. - Reserved**

**ARTICLE III - Attempt, Conspiracy, Complicity, Accessory**

**Sec. 10-51. - 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 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.~~

**Sec. 10-52. - Conspiracy.**

(a) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he or she agreed with another person or persons that they, or one (1) or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or he or she agreed 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 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 or persons to commit the same crime, he or she is guilty of conspiring to commit a crime with the other person or persons, whether or not he or she knows their identity.

(d) If a person conspires to commit a number of crimes, he or she is guilty of only one (1) 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.~~

#### **Sec. 10-53. - 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.

#### **Sec. 10-54. - 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) *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.

~~(e) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed or 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.~~

**Secs. 10-55—10-70. - Reserved.**

### **ARTICLE IV - Offenses Against the Person**

#### **Sec. 10-71. - Menacing.**

A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury.

~~Menacing is a misdemeanor.~~

**Sec. 10-72. - Reckless endangerment.**

A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment, ~~which is a misdemeanor.~~

**Sec. 10-73. - False imprisonment.**

Any person who knowingly confines or detains another without the other's consent and without proper legal authority commits false imprisonment, ~~which is a misdemeanor.~~ This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties.

**Secs. 10-74—10-90. - Reserved.**

**ARTICLE V - Offenses Against Property**

**Sec. 10-91. - Fourth degree arson.**

(a) A person who knowingly or recklessly starts or maintains a fire or causes an explosion, on his or her own property or that of another, and by so doing places any building or occupied structure of another in danger of damage, commits fourth degree arson.

~~(b) Fourth degree arson is a misdemeanor.~~

**Sec. 10-92. - Theft.**

(a) A person commits theft when he or she knowingly obtains or exercises control over anything of another without authorization or by threat or deception when the value of the thing is less than ~~four hundred~~ one thousand dollars (\$~~400~~1000.00), and:

- (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.

~~(b) Theft is a misdemeanor.~~

**Sec. 10-93. - Obtaining control over any stolen thing of value - conviction.**



Every person who obtains control over any stolen thing of value, knowing the thing of value to have been stolen by another, may be tried, convicted and punished, whether or not the principal is charged, tried or convicted.

**~~Sec. 10-94. Motor vehicle theft.~~**

~~A person who knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception commits motor vehicle theft. Motor vehicle theft is a misdemeanor.~~

**Sec. 10-94~~5~~. - Theft by receiving.**

(a) 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 the thing of value is less than ~~four hundred~~ one thousand dollars (\$~~400~~1000.00).

~~(b) Theft by receiving is a misdemeanor.~~

**~~Sec. 10-96. Criminal mischief.~~**

~~Any person who knowingly damages the real or personal property of one (1) or more other persons in the course of a single criminal episode commits criminal mischief, which is a misdemeanor.~~

**Sec. 10-95~~7~~. - Second and third degree criminal trespass.**

(a) A person commits the crime of second degree criminal trespass if he or she unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced, or if he or she knowingly and unlawfully enters or remains in or upon the premises of a hotel, motel, condominium or apartment building. ~~Second degree criminal trespass is a misdemeanor.~~

(b) A person commits the crime of third degree criminal trespass if he or she unlawfully enters or remains in or upon premises.

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**~~Sec. 10-98. Third degree criminal trespass.~~**

~~A person commits the crime of third degree criminal trespass if he or she unlawfully enters or remains in or upon premises. Third degree criminal trespass is a Class 1 petty offense, but it is a misdemeanor if the premises have been classified by the County Assessor for the county in which the land is situated as agricultural land pursuant to Section 39-1-102(1.6), C.R.S.~~

**Sec. 10-9~~6~~9. - Second degree criminal tampering.**

Except as provided in Section 10-97~~100~~, a person commits the crime of second degree criminal tampering if he or she 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. ~~Second degree criminal tampering is a misdemeanor.~~

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**Sec. 10-~~97~~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 knowledge and consent of the person owning said meter commits tampering and unauthorized connection, which is unlawful.
- (c) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he 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.

**Sec. 10-~~98~~101. - Damaging ~~property of another~~ private property.**

- (a) No person shall knowingly damage the real or personal property of another.
- (b) This Section does not apply where the damage in the course of a single criminal episode is ~~four hundred one thousand~~ dollars (\$~~400~~1,000.00) or more, is effected by means of fire or explosives or is otherwise feloniously caused.

**Sec. 10-~~99~~102. - Damaging public property.**

No person shall damage, move, remove, destroy or injure in any manner whatsoever or cause to be damaged, moved, removed, destroyed or injured any grass, tree, shrub, plant, flower, railing, bridge, culvert, sign, building or any other property whatsoever belonging to the Town or under the possession and control of the Town, unless done pursuant to a written permit or contract from the Town.

**Sec. 10-10~~0~~3. - Defacing posted notice.**

~~Any person who~~ It is unlawful for any person to knowingly mars, destroys or removes any posted notice authorized by law. ~~commits a Class 1 petty offense.~~

**Sec. 10-10~~1~~4. - Littering of public and private property.**

- (a) Any person who deposits, throws or leaves any litter on any public or private property or in any waters commits littering.
- (b) The term *litter*, as used in this Section, means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.
- (c) It ~~shall be~~ is an affirmative defense that:
  - (1) Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property;

(2) The litter is placed in a receptacle or container installed on such property for that purpose; or

(3) Such person is the owner or tenant in lawful possession of such property, or he or she has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

(d) The phrase *public or private property* as used in this Section includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, playground or building, any refuge, conservation or recreation area, and any residential, farm or ranch properties or timberlands.

(e) It is in the discretion of the court, upon the conviction of any person and the imposition of a fine under this Section, to suspend any or all of the fine in excess of the mandatory minimum fine upon the condition that the convicted person gather and remove from specified public property or lawful possession thereof any litter found thereon, or upon the condition that the convicted person pick up litter at the time prescribed by and a place within the jurisdiction of the court for not less than eight (8) hours upon a second or subsequent conviction.

(f) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom.

#### **Sec. 10-10~~25~~. - Criminal use of a noxious substance.**

(a) Any person who deposits on the land or in the building or vehicle of another, without his or her consent, any stink bomb or device, irritant or offensive-smelling substance, with the intent to interfere with another's use or enjoyment of the land, building or vehicle, ~~commits a misdemeanor.~~

(b) It ~~shall be~~is an affirmative defense that a peace officer in the performance of his or her duties reasonably used a noxious substance.

**Secs. 10-10~~30~~—10-120. - Reserved.**

### **ARTICLE VI - Offenses Involving Fraud**

#### **~~Sec. 10-121. - Unlawfully using slugs.~~**

**~~(a) — A person commits unlawfully using slugs if:~~**

**~~(1) — With intent to defraud the vendor of property or a service sold by means of a coin machine, he or she knowingly inserts, deposits or uses a slug in such machine or causes the machine to be operated by any other unauthorized means; or~~**

**~~(2) — He or she makes, possesses or disposes of a slug or slugs with intent to enable a person to use it or them fraudulently in a coin machine.~~**

**~~(b) — Slug means any object or article which, by virtue of its size, shape or any other quality, is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token, and of thereby enabling a person to obtain without valid consideration the property or service sold through the machine.~~**

**~~(c) — Unlawfully using slugs is a misdemeanor.~~**

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**Sec. 10-1212. - Fraud by check.**

(a) A person violates this Section if he or she issues or passes a check or similar sight order for the payment of money in an amount less than ~~four hundred one thousand~~ dollars (\$~~4001,000.00~~), knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order, as well as all other checks or orders outstanding at the time of issuance.

(b) This Section does not relieve the prosecution from the necessity of establishing the required knowledge by evidence. 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 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 upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issuance.

(c) *Insufficient funds* means not having a sufficient balance in account with a bank or other drawee for the payment of a check or order when the check or order is presented for payment and it remains unpaid thirty (30) days after such presentment.

(d) A bank shall not be civilly or criminally liable for releasing information relating to the issuer's account to a deputy marshal investigating or prosecuting a charge under this Section.

**Secs. 10-1213—10-140. - Reserved.**

**ARTICLE VII - Offenses Relating to Drugs**

**Sec. 10-141. - Definitions.**

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

(1) *Controlled substance* means a drug or other substance or an immediate precursor which is declared to be a controlled substance under ~~this Article~~C.R.S. § 18-18-102, and ~~also~~ includes marijuana, marijuana concentrate and cocaine.

(2) *Drug paraphernalia* means all equipment, products, and material of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the statutes of the State of Colorado. ~~means any machine, instrument, tool, equipment or device which is primarily designed and intended for one (1) or more of the following:~~

~~a. To introduce into the human body any controlled substance under circumstances in violation of the laws of this State;~~

~~b. To enhance the effect on the human body of any controlled substance under circumstances in violation of the laws of this State;~~

~~c. To conceal any quantity of any controlled substance under circumstances in violation of the laws of this State; or~~

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d. ~~To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of the laws of this State.~~

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(3) ~~*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. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.~~

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(4) ~~*Marijuana accessories* means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or ingesting, inhaling, or otherwise introducing marijuana to the human body.~~

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(5) ~~*Observable* means observable by a person with or without the aid of special devices.~~

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(6) ~~*Openly and publicly* means activity that is observable by the public or a substantial number of the public, which occurs in a place to which the public or a substantial number of the public has access without restriction, including but not limited to streets and highways, transportation facilities, places of amusement, parks, playgrounds, and the common areas of buildings and other facilities. "Openly and publicly" does not include any activity occurring on private residential property by the occupant or his or her guests.~~

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(7) ~~*Public place* means a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, streets, sidewalks, transportation facilities, schools, places of amusement, parks, vehicles on public streets or highways, playgrounds and the common areas of public and private buildings and facilities. "Public place" also includes property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or property owned, operated, leased or maintained by the Town.~~

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#### Sec. 10-142. - Possession of drug paraphernalia.

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of the laws of this State.

(b) ~~The provisions of this section shall not apply to the possession of marijuana accessories by a person that is twenty-one years of age or older, or by a person with a valid medical marijuana registration card.~~

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~~(c) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense.~~

#### Sec. 10-143. - Marijuana—Display, possession, consumption, transferring, distribution, and cultivation.~~Possession of marijuana.~~

~~(a) — It is unlawful for any person under the age of twenty-one to knowingly possess, use, display, purchase, or transport marijuana in any amount; except as allowed by a valid medical marijuana registration card. Any person who possesses not more than one (1) ounce of marijuana commits a Class 2 petty offense.~~

(a) It is unlawful for any person under the age of twenty-one to knowingly possess, use, display, purchase, or transport marijuana in any amount; except as allowed by a valid medical marijuana registration card.

(b) It is unlawful for any person twenty-one years of age or older to knowingly:

(1) Possess, use, display, purchase, or transport more than one ounce of marijuana, except as allowed by a valid medical marijuana registration card;

(2) Consume marijuana openly and publicly, or in a manner that endangers others;

(3) Transfer, dispense, or sell marijuana, provided, however, that the transfer of one ounce or less of marijuana without remuneration to a person who is twenty-one years of age or older shall not be unlawful, and provided further, that the lawful transfer, dispensing or selling of marijuana by:

(4) Possess, grow, process, or transport more than six marijuana plants or more than three mature, flowering marijuana plants, except as permitted for a licensed retail or medical marijuana establishment; or

(5) Display marijuana on Town property.

(c) Notwithstanding the provisions of this section, it shall not be unlawful for a person twenty-one years of age or older to possess, grow, process, or transport no more than six marijuana plants, with three or fewer being mature, flowering plants, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and the marijuana produced by the plants on the premises is not made available for sale.

**Sec. 10-144. — False identification.**

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(a) It is unlawful for any person under the age of twenty-one to present a false, fictitious, or counterfeit identification when purchasing or attempting to purchase marijuana.

(b) It is unlawful for any person twenty-one years of age or older to present a false, fictitious, or counterfeit identification when purchasing or attempting to purchase marijuana.

**Sec. 10-145. — Procuring marijuana for or by a minor; sales to a minor.**

(a) It is unlawful for any person to purchase for consumption or possession by, to otherwise provide for consumption or possession by, or to sell to, any person under the age of twenty-one years, marijuana.

(b) It is unlawful for any person under the age of twenty-one to possess, attempt to purchase, purchase or obtain marijuana, either directly or indirectly, or through an intermediary, by misrepresentation of age or by any other means.

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**Secs. 10-14~~94~~—10-160. - Reserved.**

## **ARTICLE VIII - Offenses Relating to Alcoholic Beverages**

### **Sec. 10-161. - Definitions.**

For purposes of this Code, the following words shall have the meanings ascribed hereafter:

Definitions in this code follow definitions in Colorado liquor code, except where otherwise indicated.

(1) *Alcoholic beverages* or *alcoholic liquors* means malt beverages, vinous or spirituous liquors.

(2) *Ethyl alcohol*, also commonly called *ethanol*, *drinking alcohol* or simply *alcohol*, is the principal type of alcohol found in alcoholic beverages, produced by the fermentation of sugars by yeasts.

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(2) *Fermented malt beverage* means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent (0.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight.

(3) *Malt liquors* 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 three and two-tenths percent (3.2%) of alcohol by weight.

(4) *Spirituous liquors* means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (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.

(5) *Vinous liquors* means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (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.

### **Sec. 10-162. - Sales near schools.**

It ~~shall be~~ unlawful for any person to sell, offer or expose for sale or gift, beer or any vinous, spirituous or malt liquors within a distance of two hundred fifty (250) feet from any private,

public or parochial school, said distance to be computed by direct measurement from the nearest property lines. This prohibition shall not, however, affect the rights of any person now 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 this time authorizing such business within the restricted area hereby established.

**~~Sec. 10-163. - Regulations concerning fermented malt beverages.~~**

~~(a) — It is unlawful to sell fermented malt beverage to any person under the age of twenty-one (21) years, or to any person between the hours of midnight and 5:00 a.m., or for any person under twenty-one (21) years to purchase or possess the same. It is unlawful to permit any fermented malt beverages to be sold or dispensed by a person under the age of twenty-one (21) years or to permit any such person to participate in the sale or dispensing thereof.~~

~~(b) — It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be of the age of twenty-one (21) years or more for the purpose of purchasing within the Town any fermented malt beverage.~~

~~(c) — It is unlawful for any person over the age of twenty-one (21) years to purchase or attempt to purchase fermented malt beverage for a person under the age of twenty-one (21) years.~~

~~(d) — It is unlawful to fail to display at all times in a prominent place on premises licensed for retail sale of fermented malt beverages a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches, with each letter to be a minimum of one-half (½) inch in height, which shall read as follows:~~

~~WARNING~~

~~IT IS ILLEGAL TO SELL 3.2 BEER TO ANY PERSON UNDER TWENTY ONE YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.~~

~~IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.~~

~~IT IS ILLEGAL IF YOU ARE TWENTY ONE YEARS OF AGE OR OVER FOR YOU TO PURCHASE 3.2 BEER FOR A PERSON UNDER TWENTY ONE YEARS OF AGE.~~

~~FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.~~

~~(e) — It shall be unlawful for any minor under twenty-one (21) years of age to have in his or her possession fermented malt beverages in public places, including but not limited to, public streets, alleys, roads or highways.~~

**Sec. 10-1634. - Regulations concerning alcoholic beverages.**

(a) It ~~shall be~~ is unlawful for any person to sell alcoholic beverages to any person under the age of twenty-one (21) years or to permit any alcoholic beverages to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.



(b) It ~~shall be~~ unlawful for any minor under twenty-one (21) years of age to ~~have in his or her possession alcoholic beverages in public places, including but not limited to, public streets, alleys, roads or highways, possess or consume ethyl alcohol in the Town.~~

(c) It ~~shall be~~ unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any article which the person under the age of twenty-one (21) years of age is forbidden by law to purchase or possess.

(d) ~~It is unlawful to serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person under the age of 21 years, a visibly intoxicated person or a known habitual drunkard.~~

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**Sec. 10-165. — Minors prohibited in taverns; exceptions; signs to be posted.**

(a) ~~It shall be unlawful for any person who is the proprietor or keeper of a tavern to employ or permit any minor under the age of twenty-one (21) years to frequent or be in or about such place unless accompanied by such minor's parent or to drink any intoxicating liquors or beer or any other fermented malt beverage in or about the same or to engage or participate in any game of billiards or any game, bet or wager with any cards or any other gambling device or any other game whatsoever in or about such place.~~

(b) ~~It shall be the duty of any person who is the proprietor or keeper of a tavern to post conspicuously in his or her place of business the following sign:~~

~~Minors under the age of twenty-one (21) years not allowed here unless accompanied by parents.~~

~~Failure to so post sign shall constitute an unlawful act.~~

**Sec. 10-166. - Fights at bars or disturbances.**

No licensee shall permit any disturbance, undue noise or unlawful or disorderly act or conduct by any person or group of persons upon the premises.

**Sec. 10-167. - Possession and consumption of alcoholic beverages in public prohibited.**

Commented [KJV2]: Could be hard to enforce other than through licensing

(a) No person within the Town limits shall possess an opened container of or consume any malt, vinous or spirituous liquor or fermented malt beverage in public, except upon premises licensed for consumption of the liquor or beverage involved.

(b) For purposes of this Section, *opened container* means any container other than an original closed container as sealed or closed for sale to the public by the manufacturer or bottler of the liquor or beverage, ~~or any container other than the sealed container prepared by a retailer for alcohol takeout or delivery in conjunction with state law.~~ If an original container has been unsealed, undone or opened in any manner, it is an opened container for purposes of this Section.

(c) For purposes of this Section, *in public* means in or upon any public highway, street, alley, walk, parking lot, building, park or other public property or place, whether in a vehicle or not.

Commented [K3]: THERE NEEDS TO BE SOME MENTION OF "PICNIC LICENSES" FOR SPECIAL EVENTS SUCH AS WHEN THE MOOSE FENCES OFF PART OF THE PARKING LOT FOR LARGE EVENTS. ADDITIONALLY, COVID CONSIDERATIONS ALLOWED FOR THE SALE OF TO GO BEVERAGES. MIXED DRINKS WERE INCLUDED AND CURRENT LEGISLATION SEEMS TO BE LEANING TOWARD KEEPING THOSE ALLOWANCES IN PLACE. SOME MENTION SHOULD BE INCLUDED TO GIVE DIRECTION ON WHAT IS ACCEPTABLE TO MEET THE CLOSED CONTAINER REQUIREMENT. – from Marshal

This will need to go in business licensing.

44-5-101 perm license change, temporary rules with covid, special events,

**Secs. 10-168—10-190. - Reserved.**

**ARTICLE IX - Offenses Against Public Peace, Order and Decency**

#### Sec. 10-191. - Indecent exposure.

(a) A person commits indecent exposure if he or she knowingly exposes 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.

~~(b) Indecent exposure is a misdemeanor.~~

#### Sec. 10-192. - Storage of flammable liquids.

It ~~shall be~~ unlawful to store or cause to be stored or parked any tank vehicle carrying flammable liquids or gases upon any streets, ways or avenues of the Town or in any other part of the Town, except those areas zoned for such uses.

#### Sec. 10-193. - Abandoned containers, wells or cisterns.

It ~~shall be~~ unlawful for any person to leave or permit to remain outside of any dwellings, buildings or other structures or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device.

#### Sec. 10-194. - Explosives.

~~(a)~~ It ~~shall be~~ unlawful for any person to store within the Town limits any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high five hundred (500) caps or other devices used for the detonation of such high explosives; other than gunpowder in conjunction with the lawful use of firearms and associated ammunition.

#### ~~Sec. 10-195. - False alarms.~~

~~Any person who shall intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor.~~

#### Sec. 10-196. - Assault.

(a) A person commits the crime of assault if he or she causes bodily injury to another person. The causing of pain upon another person shall be prima facie evidence of bodily injury.

(b) It ~~shall be~~ unlawful to assault another person.

#### Sec. 10-197. - Harassment; stalking.

(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;

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(3) Follows a person in or about a public place or, without the consent of the owner thereof, onto private property or into a private residence;

(4) Directly or indirectly initiates communication with a person or directs language toward another person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system, or other interactive electronic medium 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, computer system, or other interactive electronic medium that is obscene; or~~Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone which is obscene;~~

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property and the abuse or threat tends to incite an immediate breach of the peace; or

(7) Repeatedly insults, taunts or challenges another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

~~(c) Harassment is a misdemeanor.~~

~~(c)~~ Any act prohibited by Subparagraph (4) of Subsection (a) of this Section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

#### **Sec. 10-198. - Disorderly conduct.**

(a) A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

(1) Makes a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to incite an immediate breach of the peace;

(2) Abuses or threatens a person in a public place in an obviously offensive manner;

(3) Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy;

(4) Fights with another in a public place except in an amateur or professional contest of athletic skill;

(5) Not being a peace officer, displays 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 in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under Subsection (a)(2) of this Section that the actor had significant provocation for his or her abusive or threatening conduct.

~~(c) An offense under Subsection (a)(1) to (a)(3) of this Section is a Class 1 petty offense; and an offense under Subsections (a)(4) to (a)(6) is a misdemeanor.~~

**Sec. 10-199. - Disrupting lawful assembly.**

(a) A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, ~~including religious worship,~~ he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means.

~~(b) Disrupting lawful assembly is a misdemeanor.~~

**~~Sec. 10-200. - Disturbing religious worship.~~**

~~It shall be unlawful for any person to disquiet or disturb any congregation or assembly for religious worship by making a noise, by rude or indecent behavior or by profane discourse within their place of worship, or so near the same as to disturb the order or solemnity of the meeting.~~

**Sec. 10-201. - 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 ~~Class 1 petty offense~~ if he or she:

(1) Loiters for the purpose of unlawful gambling;

(2) Loiters for the purpose of engaging or soliciting another person to engage in prostitution.

(3) 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 one hundred (100) feet of school grounds when persons under the age of eighteen (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

(4) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-141(1) of this Code.

(c) It ~~shall be~~ 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 grievance, either in the course of labor disputes or otherwise.

**~~Sec. 10-202. - Desecration of venerated objects.~~**

(a) ~~A person commits a misdemeanor if he or she knowingly desecrates any public monument, structure or place of worship or burial or desecrates in a public place any other object of veneration by the public or a substantial segment thereof.~~

(b) ~~The term *desecrate* means defacing, damaging, polluting or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his or her action or its result.~~

#### **Sec. 10-20~~13~~. - Hindering transportation.**

~~A person commits a misdemeanor if he or she~~It is unlawful for any person to knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person, association or corporation.

#### **~~Sec. 10-204. —Throwing of stones or missiles.~~**

~~No person shall throw or shoot any stone or other missile at or upon any person, animal, public or private property, building, structure, tree or shrub.~~

#### **~~Sec. 10-205. —Publications inciting hatred and violence.~~**

~~It shall be unlawful for any person to publish, distribute or cause to be published or distributed any circular, pamphlet, card or dodger, whether anonymous or not, which incites, counsels, promotes or advocates hatred, violence or hostility against any person or group of persons residing in the Town, by reason of race, color, gender identity, sexual orientation, religion or manner of worship.~~

#### **Sec. 10-20~~26~~. - Disturbance, breach of peace.**

It is unlawful for any person in the Town to make, countenance or assist in the making of undue or unnecessary noise, riot, disturbance or breach of peace on public or private property so as to disturb or cause to be disturbed the lawful peace and quiet of another person or persons.

#### **Sec. 10-20~~37~~. - Public urination.**

No person shall urinate or defecate when in any park within the Town limits, or on any property zoned for residential uses without the express permission of the owner, or within any portion of the Town zoned for business, industrial or public uses, unless such voiding is made into a receptacle that has been provided for that purpose that stores or disposes of the wastes in a sanitary manner and that is enclosed from the view of the general public.

**Secs. 10-20~~40~~—10-230. - Reserved.**

### **ARTICLE X - Offenses Relating to Weapons**

#### **Sec. 10-231. - Unlawfully carrying a concealed weapon.**

(a) ~~A person commits a misdemeanor if he or she~~It is unlawful for a person to knowingly, ~~and unlawfully;~~

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- (1) Carries a knife with a blade exceeding 3.5" concealed on or about his or her person; or
- (2) Carries a firearm concealed on or about his or her person.

(b) It ~~shall be~~is an affirmative defense that the defendant was:

- (1) A person in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying;
- (2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his, her or another's property, while traveling;
- (3) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to law; or
- (4) A peace officer.

#### Sec. 10-232. - Prohibited use of weapons.

~~A person commits a misdemeanor if: It is unlawful for any person to:~~

- (1) ~~He or she~~ knowingly and unlawfully aims a firearm at another person;
- (2) Recklessly or with criminal negligence, ~~he or she~~ discharges a firearm or shoots a bow and arrow;
- (3) ~~He or she~~ 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; or
- (4) ~~He or she has in his or her~~Have in their possession a firearm while ~~he or she is~~ under the influence of intoxicating liquor or of a controlled substance, as defined in Section 10-141(1) of this Code. Possession of a permit issued under Section 18-12-105.1, C.R.S., is no defense to a violation of this Section.

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**Secs. 10-233—10-250. - Reserved**

#### ARTICLE XI - Offenses Relating to Minors

##### Sec. 10-251. - Juvenile loitering during nighttime hours.

(a) It ~~shall be~~is unlawful for any person under the age of eighteen (18) years to loiter or to aimlessly drive or ride about, on or about any street, avenue, highway, road, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground, yard, building, place of amusement or eating place, whether public or private, without the consent or permission of the owner or occupant thereof, during the hours ending at 6:00 a.m. and beginning at 12:00 a.m. on Saturday and Sunday mornings and beginning at 10:00 p.m. on Sunday night through Thursday night. No violation of this Section will have occurred if the person under the age of eighteen (18) years is accompanied by a parent, guardian or other adult person over the age of twenty-one (21) years who is authorized by a parent or guardian of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.

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(b) Each violation of the provisions of this Section shall constitute a separate offense.

**Sec. 10-252. - Juvenile loitering during nighttime hours; parental responsibility.**

(a) It ~~shall be~~ unlawful for the parent, guardian or other adult person having the care and custody of a juvenile under the age of eighteen (18) years to knowingly permit or allow such juvenile to loiter or to aimlessly drive or ride about at the places and within the time prohibited by Section 10-251. The term *knowingly* includes knowledge which a parent should be reasonably expected to have concerning the whereabouts of a juvenile in that parent or guardian's custody. It shall be no defense that a parent, guardian or other person having the care and custody of the juvenile was indifferent to the activities, conduct or whereabouts of such juvenile.

(b) Each violation of the provisions of this Section shall constitute a separate offense.

**Sec. 10-253. - Parent or guardian aiding, abetting.**

It ~~shall be~~ unlawful for any person to knowingly permit any minor child or children to aid, abet or encourage in or to approve, encourage, allow, permit, tolerate or consent to the violation by any minor child or children, of any provision of this Article or any ordinances of the Town. It is unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended.

~~Sec. 10-254. - Encouraging delinquency.~~

~~It shall be unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended.~~

**Sec. 10-25~~4~~5. - Services of others.**

It ~~shall be~~ unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase.

**Sec. 10-25~~5~~6. - Loitering and other acts in or about schools.**

It ~~shall be~~ 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.

**Secs. 10-25~~69~~—10-270. - Reserved.**

## **ARTICLE XII - Noise**

### **~~Sec. 10-271. - Noise.~~**

~~(a) The making and creation of excessive, unnecessary or unusually loud noises within the limits of the Town is a condition which has existed, and the extent and volume of such noises continue to be of concern.~~

~~(b) The making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the Town.~~

~~(c) The necessity in the public interest for the provisions and prohibitions contained and enacted in this Chapter is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained in this Chapter and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the residents of the Town.~~

### **Sec. 10-27~~12~~. - Prohibited noise.**

(a) The following noises are prohibited:

- (1) The sounding of any horn or signaling device on any automotive, motorcycle or other vehicle on any street or public or private place for a prolonged time, except as a danger warning.
- (2) The operating or permitting to be played or use of any machine or device for the producing or reproducing of sound in such a manner as to exceed the limits in Section 10-272(b), below.
- (3) Yelling, shouting, hooting, whistling or singing, particularly between the hours of 10:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence or of any persons in the vicinity.
- (4) The discharge into the open air of the exhaust of any stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (5) Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (6) Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building other than between 7:00 a.m. and 7:00 p.m. except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Town Clerk, which permit may be granted for a period not to exceed



three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues.

(b) It ~~shall be~~ unlawful for any person to make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection, preservation or improvement of property or of the health, safety, life or limb of some person. In applying the provisions of this Section, the following noise levels shall create a presumption that the noise unreasonably disturbs the peace and quiet of persons in the vicinity thereof:

Zone	7:00 a.m. to 7:00 p.m.	7:00 p.m. to next 7:00 a.m.
Residential	55 dB(A)	50 dB(A)
Commercial	60 dB(A)	55 dB(A)

The noise shall be measured on the A weighing scale on a sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.

For purposes of this Section, measurements with sound level meters shall be made when wind velocity is not more than five (5) miles per hour, or twenty-five (25) miles per hour with a windscreen. Measurements shall be made at a distance of at least twenty-five (25) feet from a noise source located within the public right-of-way, and if the noise source is located on private property or property other than the public right-of-way, at the property line of the property on which the noise source is located.

(c) The following are exemptions to the noises prohibited by Subsection (b):

- (1) Noises of safety signals, burglar, fire and flood warning devices, and orders given through an electronic voice amplifier by a Law Enforcement Officer or by a member of a Fire Department.
- (2) Noises resulting from any authorized emergency vehicle when responding to an emergency call.
- (3) Noises resulting from work authorized by the Town.
- (4) The electronic amplification of sound emanating from an event authorized by the Town.
- (5) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the Town in accordance with Town policy.
- (6) Any noise resulting from activities necessary for the compliance with weeds and brush regulations of Chapter 7, Article III of this Code, or to mitigate fire or other dangers to the property, including but not limited to the use of chainsaws, weed whackers and lawnmowers, so long as said activities occur between the hours of 7:00 a.m. and 7:00 p.m.

**Sec. 10-27~~23~~. - Waiver.**

The Board of Trustees will consider requests for waiver of any portion of Sections 10-271 and 10-272 for an event for which the organizers wish to use electronically amplified sound after the hours prescribed within said sections. After hearing all who wish to speak for or against the request, the Board of Trustees shall determine whether or not the granting of the waiver will unduly disturb the neighborhood in which the event is to take place.

**Sec. 10-274. Animals.**

~~It shall be 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 subsection shall not apply to hospitals conducted for the treatment of small animals which are approved by the Health Department, or to premises occupied or used by the Town pound.~~

**Sec. 10-27~~35~~. - Sirens, whistles, gongs and red lights.**

It ~~shall be~~is unlawful for any person to carry or use upon a vehicle, other than Marshal's 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 Marshal's and Fire Departments.

**Sec. 10-27~~46~~. - Mufflers.**

It ~~shall be~~is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it ~~shall be~~is unlawful for any person operating any motor vehicle to use a cut-out, bypass or similar muffler elimination appliance.

**Secs. 10-27~~52~~—10-290. - Reserved.**

**ARTICLE XIII - Fireworks**

**Sec. 10-291. - Definitions.**

*Fireworks* means and includes any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including without limitation the following articles and devices commonly known and used as fireworks: toy cannons, toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles and Day-Globombs. The term *fireworks* shall not include fountains, pinwheels, toy pistols, toy guns, sparklers or torches which do not contain explosive charges or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used and toy pistol paper caps manufactured as provided above.

**Sec. 10-292. License required.**

~~No person shall sell at retail any type of fireworks, including fountains, pinwheels, sparklers or torches, until he or she has obtained a license from the Board of Trustees.~~

**Sec. 10-29~~24~~. - Fireworks prohibited.**

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The use of fireworks, firecrackers, torpedoes, Roman candles, skyrockets and other pyrotechnic displays are prohibited within the corporate limits of the Town; provided however, that the Town may from time to time issue special permits allowing public displays sponsored by the Town.

**~~Sec. 10-293. Requirements.~~**

~~A license to sell fireworks in the Town shall issue only for such sales as are permitted under this Article and state statutes and only when the Board of Trustees has determined that the vendor meets the following requirements:~~

- ~~(1) That the applicant or, if a corporation, its officers and directors, are of a good moral character and reputation; or~~
- ~~(2) That the applicant has no plan, intent or scheme to make sales which are prohibited by this Article or the state statutes.~~

**~~Sec. 10-294. Duration and fees.~~**

~~Such license shall be valid for a period of twelve (12) months from the date of issuance, and a fee as established by resolution of the Board of Trustees shall be payable for the issuance or renewal of such license.~~

**Sec. 10-29~~3~~<sup>5</sup>. - Unlawful to sell or use.**

Except as otherwise provided in this Article, it ~~shall be~~<sup>is</sup> unlawful for any person to offer for sale, expose for sale, sell or have in his or her possession with intent to offer for sale, sell or use any fireworks within the Town.

**Sec. 10-29~~4~~<sup>6</sup>. - Permits.**

The Board of Trustees shall have the power to grant permits within the Town for supervised public displays of fireworks by the Town, amusement parks and other organizations and groups and to adopt reasonable rules and regulations for the granting of such permits. Application for a permit shall be made in writing at least fifteen (15) days in advance of the date of display. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. Before a permit is granted, the operator and the location and handling of the display shall be approved after investigation by the Marshal's Department or an authorized agent thereof. No permit shall be transferable or assignable.

**Sec. 10-29~~5~~<sup>7</sup>. - Bond.**

A satisfactory bond shall be required of each permittee in the sum of not less than five hundred dollars (\$500.00), conditioned for the payment of all damages which may be caused either to persons or property by reason of the licensed display and arising from the acts of the permittee, his or her agents, employees or subcontractors. The aggregate liability of the surety on such bond for all damages shall in no event exceed the sum of such bond.

**Sec. 10-29~~6~~<sup>8</sup>. - Disposal of unfired fireworks.**

Any fireworks that remain unfired after the display is concluded shall be immediately disposed of by the Fire Department in a method which is safe for the discharge of that or those particular types of fireworks.

**Sec. 10-2979. - Seizure of fireworks.**

The Marshal's Department shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this Article.

**Sec. 10-298300. - Construction.**

This Article shall not be construed to prohibit:

- (1) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell, fireworks to any municipality, fair, association, amusement park or the governing body of any county or district fair organized under the laws of the State;
- (2) Any person from using or exploding fireworks in accordance with the provisions in this Article or as a part of supervised public display at any county or district fair organized under the laws of the State;
- (3) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell, any fireworks which are to be sold and are shipped directly out of State;
- (4) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell or using or exploding any article, device or substance for a purpose other than display, exhibition, noise, amusement or entertainment;
- (5) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell or using or exploding blank cartridges for a show or theater or for signal or ceremonial purposes in organized athletics or sports; or
- (6) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell or using or firing toy pistols, toy guns, sparklers or torches which do not contain explosive charges or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulation for packing and shipping of toy paper caps are used and toy pistol paper caps manufactured as provided in this Article.

**Secs. 10-299301—10-320. - Reserved.**

**ARTICLE XIV - ~~House Cars~~ Recreational Vehicles, Trailers and Tents**

**Sec. 10-321. - Definitions.**

Whenever in this Article the words hereinafter defined or construed in this Section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

*Boat trailer* shall mean a portable structure used for the transport and out-of-water storage of any boat or watercraft.

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*Cargo trailer* shall include, but not be limited to, the transport or storage of merchandise, building materials, commerce items, vehicles, tools, refrigeration or manufacturing process, whether of an enclosed design, flatbed, stake bed or tarpaulin covered.

*Horse trailer* or *stock trailer* shall mean any portable structure designed and intended for the transport and temporary shelter of any animal to include, but not inclusive to, horse, cow, llama, pig, goat, sheep or similar form of domesticated or wild animal.

~~*House car* shall be defined as a portable structure designed for or capable of human habitation, mounted on wheels and being either self propelled or drawn by a stock motor vehicle or designed to be loaded onto or affixed to the bed or chassis of a truck or portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which folds for towing by another vehicle and unfolds at a campsite to provide temporary living quarters for recreational camping or travel use. The term *house car* shall include units designated as campers, camper buses, motor homes, tent trailers, travel trailers or any other portable structure designed for or used for human habitation.~~

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~~*House trailer* as used herein shall mean any structure intended for or capable of human habitation and capable of being moved from place to place either by its own power or power supplied by some vehicle attached or to be attached thereto, and regardless of whether wheels have been removed therefrom and the same set upon a permanent foundation.~~

*Recreational vehicle* means a vehicular or portable unit mounted on a chassis and wheels, which either has its own motive power or is mounted on or drawn by another vehicle. A recreational vehicle is generally not designed or intended for use as a permanent dwelling or sleeping place, but is to provide temporary living or sleeping quarters for recreational, camping or travel use. The term *recreational vehicle* shall include units designated as campers, camper buses, motor homes, tent trailers, travel trailers or any other portable structure designed for or used for human habitation.

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*Tent* shall be defined as a collapsible, temporary and portable structure of canvas or other fabric, supported internally or externally by wood, metal poles or framework, wire or cable.

#### **Sec. 10-322. - Placement on public property.**

(a) No person shall permit any ~~house car~~recreational vehicle or trailer to be parked or stand upon any public street, alley, park or way of the Town for longer than four (4) hours during any twenty-four-hour period. However, the Board of Trustees may, by resolution, designate locations within the Town on property owned by the Town where ~~house cars~~recreational vehicles or trailers may be maintained and which ~~house cars~~recreational vehicles or trailers may be used for living purposes, provided that the same shall pose no threat to the public health and be permitted by the County Health Departments.

(b) No ~~house car~~recreational vehicle or trailer shall be permitted to be parked upon any street within the corporate limits of the Town so as to extend outward into the street a distance in excess of ten (10) feet measured at right angles with the curb or to project into or obstruct any traffic lane.

(c) No person shall cause or permit any tent to be erected upon any public street, alley, park or way of the Town.

#### **Sec. 10-323. - Placement on private property.**

(a) No person shall maintain or permit to be maintained any ~~house-car~~recreational vehicle upon any private property within the Town when the same is used for living purposes.

(b) No person shall cause or permit any tent to be erected and/or maintained on private property when the same is used for living purposes for a period exceeding three (3) days.

**Sec. 10-324. - Inhabiting ~~house-trailers~~recreational vehicles.**

(a) The Board of Trustees hereby finds and declares the keeping or maintenance of house trailers on private property for the purpose of actual abode therein within the corporate limits of the Town to be a public nuisance.

(b) Hereafter, it ~~shall be~~ unlawful for any person to keep, maintain or permit to be kept or maintained on property owned or leased by such person, within the corporate limits of the Town, any house trailer used for the actual purpose of human habitation; provided, however, that it ~~shall be~~ lawful for any and all persons to maintain and store privately owned house trailers or other mobile abodes, including but not limited to pickup campers, camping trailers, cargo trailers, horse and stock trailers and boat trailers, provided that ~~said named trailers do not exceed twenty-two (22) feet in actual length, and further provided that~~ said mobile abodes, house trailers, pickup campers and camping trailers so stored shall not be used as supplemental abodes, extra sleeping rooms or living quarters in any respect while the same are stored on private property within the Town.

**ARTICLE XV - ~~R~~Restriction of all Open Fires and Open Burning~~†~~**

**Sec. 10-325. - Purpose.**

The purpose of this Ordinance is to preserve and protect the public health, safety, and welfare of the citizens of the Town of Green Mountain Falls, Colorado, by restricting open fires and open burning in the Town of Green Mountain Falls in order to prevent forest fires given the high danger of such fires as a result of atmospheric conditions, including lack of moisture, and other local conditions.

**Sec. 10-326. - Interpretation.**

This Ordinance shall be so interpreted and construed as to effectuate its general purpose to preserve and protect the public health, safety, and welfare of the citizens of the Town of Green Mountain Falls, Colorado, by restricting open fires and open burning in order to prevent forest fires given the high danger of such fires in the area.

**Sec. 10-327. - Definitions.**

(a) *Open fire or open burning.* For purposes of this Ordinance, open fires or open burning shall be defined as any outdoor fire, including, but not limited to, campfires, warming fires, cooking fires, charcoal grill fires, fires in outdoor wood burning appliances, the use of explosives, outdoor welding or operating an acetylene or other torch with open flame other than in an area cleared of all flammable materials, fireworks of all kinds or brands, and the prescribed burning of fence lines or rows, fields, farmlands, rangelands, wildlands, trash, and debris.

(b) *Fire restriction evaluation guidelines.* That set of evaluation criteria currently in use by local Federal, State and local fire suppression/management agencies for monitoring fuel moistures, fire

danger class, current impacts on suppression resources, current fire cause types, fire weather forecasts, and other indicators of predicted fire danger.

**Sec. 10-328. - Stage I restrictions.**

Prohibits the following activities:

- (1) Open burning, excepting fires and campfires within permanently constructed fire grates in developed campgrounds and picnic grounds, charcoal grills and permanent outdoor fireplaces at private residences in areas cleared of all flammable materials.
- (2) The sale or use of fireworks; as defined in Section 10-29~~2~~<sup>4</sup>.
- ~~(3) Outdoor smoking except within an enclosed vehicle or building, a developed recreation site or while stopped in an area at least three (3) feet in diameter that is barren or cleared of all flammable materials.~~
- ~~(3)~~<sup>4</sup> Launching of model rockets.
- ~~(4)~~<sup>5</sup> Portable wood burning firepits or fire rings.
- ~~(5)~~<sup>6</sup> Chimineas.
- ~~(6)~~<sup>7</sup> Outdoor charcoal grills and permanent outdoor fireplace constructed with a spark arrestor on the chimney shall be allowed during Stage I restrictions, provided they are at private residences and in an area cleared of all flammable materials including dry vegetation.
- (7) The lighting of emergency flares or roadside fuses.

**Sec. 10-329. - Stage II restrictions.**

Prohibits the following activities:

- (1) All open burning as defined in Stage I and all prohibited activities listed in Section 10-328.
- (2) Outdoor smoking except within an enclosed vehicle or building.
- (3) Outdoor grilling with charcoal.

**Sec. 10-330. - Unlawful acts.**

During Stage I or Stage II restrictions, it ~~shall be~~<sup>is</sup> unlawful for any person to build, maintain, attend or use an open fire, conduct an open burn, conduct sales of fireworks, or engage in outdoor smoking other than as explicitly allowed herein, in the Town of Green Mountain Falls including public, private, state, and applicable federal lands.

**Sec. 10-331. - Requirements when and where outdoor fires are permitted.**

- (1) The outdoor fires must be attended at all times.
- (2) Attendees of an outdoor fire must have a suitable extinguisher nearby such as: a functioning garden hose, an extinguisher or dry chemical extinguisher.
- (3) An outdoor fire must be at least twenty (20) feet from structures, including all buildings.

**Sec. 10-332. - Exceptions/exemptions.**

(a) The following shall not be in violation:

- Commercial or community fireworks displays properly permitted.
- Fires contained within liquid-fueled or gas-fueled stoves.
- Indoor fireplaces and wood-burning stoves installed and maintained in compliance with all applicable codes and ordinances.
- Chainsaws with appropriate spark arrestors.
- Outdoor charcoal grills and permanent outdoor fireplace constructed with a spark arrestor on the chimney shall be allowed during Stage I restrictions, provided they are at private residences and in an area cleared of all flammable materials including dry vegetation.

(b) The burning of irrigation ditches is prohibited by this Ordinance.

(c) Any Federal, State, or local officer, or member of a rescue or firefighting force organized, employed or contracted by a Federal, State or local firefighting, military, or police protection service in the performance of an official duty.

(d) Any further exemptions to either the meaning of terms or the enforcement of this Ordinance shall be granted only by the Fire Chief, and only if the proposed action is deemed to be safe and mitigable in the Fire Chief's sole discretion based on best fire safety practices.

**Sec. 10-333. - Implementation of stages.**

The Fire Chief or his or her designee may monitor fire danger conditions and coordinate with Federal, State and local fire agencies to determine the appropriate stage of restrictions. When the established Fire Restriction Evaluation Guidelines indicate that enforcement of this Ordinance under Stage I restrictions should be reinstated, or that restrictions should be upgraded to Stage II restrictions, the Town of Green Mountain Falls' Public Information Officer or his or her designee shall coordinate with the Fire Chief and provide notification to the public through a general press release to local television, radios and print media, as well as posting at the Green Mountain Falls Town Hall. Likewise, when conditions indicate a reduction in restrictions from Stage II to Stage I, or the suspension of enforcement, the same notification to the public shall occur.

**Sec. 10-334. - Enforcement agencies/prosecution.**

This Ordinance shall be enforced by the Green Mountain Falls Marshal, or his or her deputies, including thereby the administering agencies of the State and Federal lands located therein, and they shall have authority to order any person to immediately cease any violation of this Ordinance. This authority shall include, but not be limited to, the right to issue a penalty assessment notice and the right to take such person or persons into temporary custody. Any further exception to the enforcement ability of this Ordinance by the administering agency shall be granted only by the administering agency, and only if the proposed action is deemed by the Fire Chief or the State or Federal administering agency to be safe or mitigable.

**Sec. 10-335. - Penalties.**



It is unlawful for any person to violate any of the provisions adopted in this Article.  
~~Violation of this Ordinance shall be a misdemeanor under Green Mountain Falls Municipal Code.~~  
The penalties for violation of this adopted Code are as set forth in in Section 1-42 of this Code.  
~~resolution or subsequent modifications thereof.~~

**Secs. 10-336—10-340. - Reserved.**

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## CHAPTER 10 - General Offenses

### ARTICLE I - General Provisions

#### Sec. 10-1. - Adopted.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., there is adopted by reference, in part, Title 18, C.R.S., officially approved, adopted and published by the State, of which one (1) copy is on file at the Town Hall and may be inspected during regular business hours, pursuant to the adopted ordinance, to wit: (Ord. 92-04 §1)

#### Sec. 10-2. - Legislative purpose.

It is the purpose of this Chapter to provide for the public health, safety and welfare of the Town.

(Ord. 92-04 §1)

#### Sec. 10-3. - Local question.

It is the intention of the Board of Trustees that the ordinances and provisions of this Chapter deal with matters of "local" and "mixed" state and local concern and that no provision of this Chapter is to be construed expressly or by implication to permit conduct that is illegal under the laws of the State or to prohibit conduct that is expressly permitted by the laws of the State. The provisions of this Chapter are to be construed to apply to misdemeanors and other minor and petty offenses only and are not to be interpreted to apply to conduct that is defined as a felony under the laws of the State.

(Ord. 92-04 §1)

#### Sec. 10-4. - Irreconcilable ordinances.

If the Board of Trustees enacts an ordinance that is irreconcilable with another provision of this Chapter, the ordinance whose effective date is latest prevails.

(Ord. 92-04 §1)

#### Sec. 10-5. - Application of Code.

(a) A person is subject to prosecution in Municipal Court for a violation committed through the conduct of such person or through the conduct of another for whom such person is legally accountable, if:

- (1) The conduct constitutes a violation and is committed either wholly or partly within the Town;
- (2) The conduct outside the Town constitutes an attempt, as defined by this Chapter, to commit a violation within the Town;

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(3) The conduct outside the Town constitutes a conspiracy to commit a violation within the Town, and an act in furtherance of the conspiracy occurs in the Town; or

(4) The conduct within the Town constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction a violation prohibited under the laws of the Town and such other jurisdiction.

(b) Whether a violator is in or outside the Town is immaterial to the commission of a violation based on an omission to perform a duty imposed by the law of the Town.

(c) *Town*, as used in this Chapter and in any summons, summons and complaint or complaint alleging a violation of the Code or any ordinance, includes both the area within the territorial limits of the Town of Green Mountain Falls, Colorado, and also those areas over which extraterritorial police power has been granted by the statutes of this State. It is the intent of the Board of Trustees to extend the territorial jurisdiction of the Municipal Court as widely as possible. However, where specific sections of this Chapter require that the violation occur "within the Town," then the offense is limited to the territorial limits of the Town.

~~(Ord. 92-04 §1)~~

**Sec. 10-6. ~~Classification of violations.~~**

~~Violations of this Code shall be classified as misdemeanors, Class 1 petty offenses or Class 2 petty offenses.~~

~~(Ord. 92-04 §1)~~

**~~Sec. 10-7. Violations.~~**

(a) ~~The terms *crime, petty offense, offense, misdemeanor* and *violation*, as used in this Code or any uncodified ordinance, are synonymous. Any act or omission declared to be a violation or to be unlawful or required or prohibited by the phrase "no person shall," or similar mandatory language in or by this Code, any ordinance of the Town or any rule promulgated thereunder, constitutes a violation.~~

(b) ~~Unless otherwise specifically provided in this Code, an ordinance of the Town or a rule promulgated thereunder, every day of a violation of this Code, ordinance or rule constitutes a separate violation.~~

~~(Ord. 92-04 §1)~~

**~~Sec. 10-8. - Statute of limitations.~~**

~~No person shall be prosecuted, tried or punished for any violation under this Code or any ordinance unless the action for said violation is instituted within one (1) year of the date of the alleged violation, but the statute of limitations within which a prosecution must be instituted shall be tolled for any period in which a prosecution is pending against the accused for the same conduct, even if the summons, complaint or summons and complaint that commence the prosecution are quashed or the proceedings thereon are set aside or reversed on appeal.~~

**~~Sec. 10-7. (Ord. 92-04 §1)~~**

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**- Violation and penalty.**

The penalty for violation of any provision of this Chapter is as set forth in Section 1-2 of this Code, subject to the following:

(a) A 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. Any restitution ordered by the Municipal Court shall be in addition to any such fine.

(b) The Municipal Court may award restitution to any victim of any action specified as unlawful in this Chapter and may order a person found or pleading guilty to any such violation to pay such restitution as ordered by the Municipal Court. Such restitution shall be determined by the submission of a bill of costs by the victim to the Municipal Court on a form approved by the Municipal Court. Authority is expressly granted to the Municipal Court to order such restitution for any and all costs incurred by public safety and/or emergency response agencies of the Town or other governmental or quasi-governmental entities in connection with the initial response to and all subsequent follow-up investigations of violations of this Chapter. Any restitution ordered by the Municipal Court shall be in addition to any fine and/or imprisonment authorized by this Code and shall likewise be applicable to any situation in which a deferred judgment or deferred sentence is accepted and/or imposed by the Municipal Court.

(c) The Municipal Court may order any person convicted of or pleading guilty to any violation of this Chapter to perform useful public service, which may be in addition to any other penalty imposed by the Municipal Court.

~~Secs. 10-9 to 10-20. Reserved~~

**ARTICLE II - Offenses By or Against Public Officers and Government**

**Sec. 10-21. - Definitions.**

As used in this Chapter, unless the context otherwise requires:

- (1) *Government* includes any branch, subdivision, institution or agency of the government of this Town.
- (2) *Governmental function* includes any activity which a public servant is legally authorized to undertake on behalf of a government.
- (3) *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. 92-04 §1)~~

**Sec. 10-22. - Resisting arrest.**

~~(a) A person commits resisting arrest if he or she, knowingly 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:~~

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(1) Using or threatening to use physical force or violence against the peace officer or another; or

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(2) Using any other means which creates a substantial risk of causing bodily injury to the peace officer or another.

(b) It is no defense to prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if he or she was acting under color of his or her official authority and, in attempting to make the arrest, he or she 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, he or she 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.

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~~(c) Resisting arrest is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

**Sec. 10-23. ~~Interference with peace officers, deputy marshals.~~**

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~~(a) It shall be unlawful for any person in any way to interfere with or hinder any~~ **Obstructing peace officer, marshal or deputy marshal while such person is discharging his or her duties, firefighter, emergency medical services provider, rescue specialist or volunteer.**

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~~(ba) A person commits obstructing a peace officer or fireman who, marshal, firefighter, emergency medical service provider, rescue specialist or volunteer when, by using or threatening to use violence, force or physical interference or obstacle, he or she~~ **such person knowingly obstructs, impairs or hinders the enforcement of any duty of the penal law or the preservation of peace by a peace officer, acting under color of his or her official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of a fire by a fireman, acting under color of his or her official authority** **marshal, firefighter, emergency medical services provider, rescue specialist or volunteer.**

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~~(eb) It is no 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, as defined in Section 10-22(b) above.~~

~~(dc) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest.~~

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~~(e) Obstructing~~ **Sec. 10-24. – Duty to aid; refusing to aid a peace officer.**

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~~Is a misdemeanor.~~

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~~(Ord. 92-04 §1)~~

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~~unlawful for a~~ **Sec. 10-24. – Refusing to aid a peace officer.**

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~~A person eighteen (18) years of age or older commits a Class 1 petty offense when to, upon command by a person known to him or her to be a peace officer, he or she unreasonably refuses~~ **refuse or fails fail** **to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense.**

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(Ord. 92-04 §1)

**Sec. 10-25. ~~Interference with firemen on duty.~~**

~~It shall be unlawful for any person to hinder, obstruct, oppose or interfere with any member of the Fire Department while he or she is in the performance of his or her duty.~~

(Ord. 92-04 §1)

**Sec. 10-26. - Compounding.**

(a) A person commits compounding if he or she accepts or agrees to accept any pecuniary benefit as consideration for:

- (1) Refraining from seeking prosecution of an offender; or
- (2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime.

~~(b) — Compounding is a misdemeanor.~~

(Ord. 92-04 §1)

**Sec. 10-27~~26~~. - Resisting an officer; assisting an escape; rescuing a prisoner.**

(a) It ~~shall be~~is unlawful for any person to resist any peace officer, marshal, deputy marshal, any member of the Marshal's Department or any person duly empowered with police authority while in the discharge or apparent discharge of his or her duty or in any way to interfere with or hinder him or her in the discharge of his or her duty.

(b) It ~~shall be~~is unlawful for any person to offer or endeavor to assist any person ~~into escape or to attempt to escape from custody, or rescue or attempt to rescue any person in~~ the custody of a peace officer, marshal, deputy marshal, member of the Marshal's Department or a person duly empowered with police authority ~~to escape or to attempt to escape from custody.~~

~~(c) — It shall be unlawful for any person to rescue or attempt to rescue any person in the custody of a peace officer, marshal, deputy marshal, a member of the Marshal's Department or a person duly empowered with police authority.~~

(Prior code 8-8-7)

**Sec. 10-28~~27~~. - False reporting to authorities.**

(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 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; or

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(3) He or she 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.

(b) ~~False reporting to authorities is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

**Sec. 10-2928. - Interference with alarm system; false alarm.**

It ~~shall be is~~ unlawful for any person to damage or interfere with any fire alarm system or appliance or any part of the same. It ~~shall be is~~ unlawful for any person to make or give a false alarm of fire.

~~(Ord. 92-04 §1)~~

**Sec. 10-30. - Duty of citizens to aid peace officers, deputy marshals.**

~~It shall be the duty of all persons when called upon by a peace officer, marshal, deputy marshal or any other member of the Marshal's Department to promptly aid and assist such peace officer, marshal, deputy marshal or member in the discharge of his or her duties.~~

~~(Prior code 8-8-8)~~

**Sec. 10-3129. - Impersonating an officer, Town officer, or employee.**

(a) It ~~shall be is~~ unlawful for any person other than an official marshal or deputy ~~marshal of marshal~~ of the Town to wear the uniform, apparel or any other insignia of office like, similar to or a colorable imitation of that adopted and worn by the official marshal or deputy marshals.

(b) It ~~shall be is~~ unlawful for any person to counterfeit, imitate or cause to be counterfeited, imitated or colorably imitated the uniform, apparel or insignia of office used by the Marshal's Department.

~~(Prior code 8-8-9)~~

**Sec. 10-32. - Impersonating Town officers and employees.**

(c) ~~Is is unlawful for any person other than an official marshal or deputy marshal of the Town to operate a motor vehicle adorned with lights, insignias, or symbols to imitate the official Town marshal vehicles.~~

(c) ~~It shall be is~~ unlawful for any person to willfully, unlawfully or fraudulently represent himself or herself to be a Town officer or an employee of the Town and purporting to perform the duties of any such officer or employee when he or she is not an authorized officer or employee of the Town.

~~(Prior code 8-8-10)~~

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~~Sec. 10-33. - Escapes~~**30. - Escape.**

~~It is unlawful for any person commits a Class 1 petty offense if,~~ while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense, ~~he or she to,~~ knowingly ~~escape~~escape, from said custody or confinement.

~~(Ord. 92-04 §1)~~

~~Sec. 10-34~~**31. - Interference with official function: entering or remaining on restricted Town premises.**

~~(a)~~ It is unlawful for any person to intentionally, knowingly or recklessly interfere with, disrupt, hinder or impede the normal operation of or an official function of the Town, or any department or official thereof.

~~(Ord. 04-2010 §1)~~

~~Sec. 10-35. - Entering or remaining on restricted Town premises.~~

~~(b)~~ It is unlawful for any person to enter or remain in or on premises of the Town which have been posted "Employees Only," "No Admittance" or similar notice without invitation or permission of an authorized employee of the Town.

~~(Ord. 04-2010 §1)~~

~~Sec. 10-36. - Order to refrain from entering or for removal from Town premises.~~

~~(c)~~ It is unlawful for any person to remain in or on any premises of the Town or reenter any premises of the Town after the person has been ordered to remove himself or herself from the premises or to refrain from entering the premises by an employee of the Town. For purposes of this Section, the department head or employee on duty shall have the authority to issue an order for any person to remove himself or herself from the premises or to refrain from entering the premises.

~~(Ord. 04-2010 §1)~~

**Secs. 10-37 to 10-50. - Reserved**

**ARTICLE III - Attempt, Conspiracy, Complicity, Accessory**

**Sec. 10-51. - 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

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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 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. 92-04 §1)~~

**Sec. 10-52. - Conspiracy.**

(a) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he or she agreed with another person or persons that they, or one (1) or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or he or she agreed 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 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 or persons to commit the same crime, he or she is guilty of conspiring to commit a crime with the other person or persons, whether or not he or she knows their identity.

(d) If a person conspires to commit a number of crimes, he or she is guilty of only one (1) 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. 92-04 §1)~~

**Sec. 10-53. - 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. 92-04 §1)~~

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**Sec. 10-54. - 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) *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 or 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. 92-04 §1)~~

**Secs. 10-55—10-70. - Reserved.**

**ARTICLE IV - Offenses Against the Person**

**Sec. 10-71. - Menacing.**

A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury.

~~Menacing is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

**Sec. 10-72. - Reckless endangerment.**

A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment, ~~which is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

**Sec. 10-73. - False imprisonment.**

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Any person who knowingly confines or detains another without the other's consent and without proper legal authority commits false imprisonment, ~~which is a misdemeanor.~~ This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties.

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~~(Ord. 92-04 §1)~~

~~Secs. 10-74—10-90. - Reserved.~~

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## ARTICLE V - Offenses Against Property

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### Sec. 10-91. - Fourth degree arson.

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(a) A person who knowingly or recklessly starts or maintains a fire or causes an explosion, on his or her own property or that of another, and by so doing places any building or occupied structure of another in danger of damage, commits fourth degree arson.

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~~(b) Fourth degree arson is a misdemeanor.~~

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### Sec. 10-92. - Theft.

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(a) A person commits theft when he or she knowingly obtains or exercises control over anything of another without authorization or by threat or deception when the value of the thing is less than four hundred dollars (~~\$400~~1000.00), and:

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(1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

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(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;

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(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.

~~(b) Theft is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

### Sec. 10-93. - Obtaining control over any stolen thing of value - conviction.

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Every person who obtains control over any stolen thing of value, knowing the thing of value to have been stolen by another, may be tried, convicted and punished, whether or not the principal is charged, tried or convicted.

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~~(Ord. 92-04 §1)~~

### Sec. 10-94. ~~Motor vehicle theft.~~

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~~A person who knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception commits motor vehicle theft. Motor vehicle theft is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

~~Sec. 10-95. - Theft by receiving.~~

~~(a) 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 the thing of value is less than four hundred dollars (\$4001000.00).~~

~~(b) —Theft by receiving is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

~~Sec. 10-96. —Criminal mischief.~~

~~Any person who knowingly damages the real or personal property of one (1) or more other persons in the course of a single criminal episode commits criminal mischief, which is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

~~Sec. 10-9795. - Second and third degree criminal trespass.~~

~~(a) A person commits the crime of second degree criminal trespass if he or she unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced, or if he or she knowingly and unlawfully enters or remains in or upon the premises of a hotel, motel, condominium or apartment building. Second degree criminal trespass is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

~~Sec. 10-98. —Third degree criminal trespass.~~

~~(b) A person commits the crime of third degree criminal trespass if he or she unlawfully enters or remains in or upon premises. Third degree criminal trespass is a Class 1 petty offense, but it is a misdemeanor if the premises have been classified by the County Assessor for the county in which the land is situated as agricultural land pursuant to Section 39-1-102(1-6), C.R.S.~~

~~(Ord. 92-04 §1)~~

~~Sec. 10-9996. - Second degree criminal tampering.~~

~~Except as provided in Section 10-10097, a person commits the crime of second degree criminal tampering if he or she 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~~

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unauthorized connection with property of a utility. ~~Second-degree criminal tampering is a misdemeanor.~~

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~~(Ord. 92-04 §1)~~

**Sec. 10-~~100~~97. - Tampering and unauthorized connection.**

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(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 knowledge and consent of the person owning said meter commits tampering and unauthorized connection, which is unlawful.

(c) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he 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. 92-04 §1)~~

**Sec. 10-~~101~~98. - Damaging private property of another.**

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(a) No person shall knowingly damage the real or personal property of another.

(b) This Section does not apply where the damage in the course of a single criminal episode is four hundred dollars (\$~~400~~1,000.00) or more, is effected by means of fire or explosives or is otherwise feloniously caused.

~~(Ord. 92-04 §1)~~

**Sec. 10-~~102~~99. - Damaging public property.**

No person shall damage, move, remove, destroy or injure in any manner whatsoever or cause to be damaged, moved, removed, destroyed or injured any grass, tree, shrub, plant, flower, railing, bridge, culvert, sign, building or any other property whatsoever belonging to the Town or under the possession and control of the Town, unless done pursuant to a written permit or contract from the Town.

~~(Ord. 92-04 §1)~~

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**Sec. 10-~~103~~100. - Defacing posted notice.**

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~~Any-It is unlawful for any person who to knowingly mars, destroysmar, destroy, or removesremove any posted notice authorized by law-commits a Class 4 petty offense.-~~

~~(Ord. 92-04 §1)~~

**Sec. 10-104101. - Littering of public and private property.**

(a) Any person who deposits, throws or leaves any litter on any public or private property or in any waters commits littering.

(b) The term *litter*, as used in this Section, means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

(c) It ~~shall be~~is an affirmative defense that:

(1) Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property;

(2) The litter is placed in a receptacle or container installed on such property for that purpose; or

(3) Such person is the owner or tenant in lawful possession of such property, or he or she has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

(d) The phrase *public or private property* as used in this Section includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, playground or building, any refuge, conservation or recreation area, and any residential, farm or ranch properties or timberlands.

(e) It is in the discretion of the court, upon the conviction of any person and the imposition of a fine under this Section, to suspend any or all of the fine in excess of the mandatory minimum fine upon the condition that the convicted person gather and remove from specified public property or lawful possession thereof any litter found thereon, or upon the condition that the convicted person pick up litter at the time prescribed by and a place within the jurisdiction of the court for not less than eight (8) hours upon a second or subsequent conviction.

(f) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom.

~~(Ord. 92-04 §1)~~

**Sec. 10-105102. - Criminal use of a noxious substance.**

(a) Any person who deposits on the land or in the building or vehicle of another, without his or her consent, any stink bomb or device, irritant or offensive-smelling substance, with the intent to interfere with another's use or enjoyment of the land, building or vehicle, ~~commits a misdemeanor.-~~

(b) It ~~shall be~~is an affirmative defense that a peace officer in the performance of his or her duties reasonably used a noxious substance.

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(Ord. 92-04 §1)

**Secs. 10-106-103—10-120. - Reserved.**

**ARTICLE VI - Offenses Involving Fraud**

**Sec. 10-121. —Unlawfully using slugs.**

- (a) —A person commits unlawfully using slugs if:
- (1) —With intent to defraud the vendor of property or a service sold by means of a coin machine, he or she knowingly inserts, deposits or uses a slug in such machine or causes the machine to be operated by any other unauthorized means; or
  - (2) —He or she makes, possesses or disposes of a slug or slugs with intent to enable a person to use it or them fraudulently in a coin machine.
- (b) —*Slug* means any object or article which, by virtue of its size, shape or any other quality, is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token, and of thereby enabling a person to obtain without valid consideration the property or service sold through the machine.
- (c) —Unlawfully using slugs is a misdemeanor.

(Ord. 92-04 §1)

**Sec. 10-122. - Fraud by check.**

- (a) A person violates this Section if he or she issues or passes a check or similar sight order for the payment of money in an amount less than four hundred dollars (\$400.00), knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order, as well as all other checks or orders outstanding at the time of issuance.
- (b) This Section does not relieve the prosecution from the necessity of establishing the required knowledge by evidence. 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 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 upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issuance.
- (c) *Insufficient funds* means not having a sufficient balance in account with a bank or other drawee for the payment of a check or order when the check or order is presented for payment and it remains unpaid thirty (30) days after such presentment.
- (d) A bank shall not be civilly or criminally liable for releasing information relating to the issuer's account to a deputy marshal investigating or prosecuting a charge under this Section.

(Ord. 92-04 §1)

**Secs. 10-123-124—10-140. - Reserved.**

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## ARTICLE VII - Offenses Relating to Drugs

### Sec. 10-141. - Definitions.

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

(1) *Controlled substance* means a drug or other substance or an immediate precursor which is declared to be a controlled substance under ~~this Article~~ C.R.S. § 18-18-102, and ~~also~~ includes marijuana, marijuana concentrate and cocaine.

(2) *Drug paraphernalia* means ~~any machine, instrument, tool, all equipment or device which is primarily designed, products, and material of any kind which are used, intended for one~~ (4) ~~use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or more of the following:~~

a. ~~To introduce otherwise introducing into the human body any~~ controlled substance under circumstances in violation of the laws of this State;

b. ~~To enhance the effect on the human body of any controlled substance under circumstances in violation of the laws~~ statutes of ~~this the State, of Colorado,~~

c. ~~To conceal any quantity of any controlled substance under circumstances in violation of the laws of this State; or~~

d. ~~To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of the laws of this State.~~

(Ord. 92-04 §1)

(3) *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. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

(4) *Marijuana accessories* means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or ingesting, inhaling, or otherwise introducing marijuana to the human body.

(5) *Observable* means observable by a person with or without the aid of special devices.

(6) *Openly and publicly* means activity that is observable by the public or a substantial number of the public, which occurs in a place to which the public or a substantial number of the public has access without restriction, including but not limited to streets and highways, transportation facilities, places of amusement, parks, playgrounds, and the common areas of buildings and other

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facilities. "Openly and publicly" does not include any activity occurring on private residential property by the occupant or his or her guests.

(7) Public place means a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, streets, sidewalks, transportation facilities, schools, places of amusement, parks, vehicles on public streets or highways, playgrounds and the common areas of public and private buildings and facilities. "Public place" also includes property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or property owned, operated, leased or maintained by the Town.

#### **Sec. 10-142. - Possession of drug paraphernalia.**

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of the laws of this State.

(b) ~~Any person who commits~~ The provisions of this section shall not apply to the possession of drug paraphernalia ~~commits a Class 2 petty offense.~~

(Ord. 92-04 §1)

#### **~~Sec. 10-143. - Possession of marijuana.~~**

~~Any accessories~~ by a person that is twenty-one years of age or older, or by a person with a valid medical marijuana registration card.

#### **Sec. 10-143. - who possesses not Marijuana—Display, possession, consumption, transferring, distribution, and cultivation.**

(a) It is unlawful for any person under the age of twenty-one to knowingly possess, use, display, purchase, or transport marijuana in any amount; except as allowed by a valid medical marijuana registration card.

(b) It is unlawful for any person twenty-one years of age or older to knowingly:

(1) Possess, use, display, purchase, or transport more than one (1) ounce of marijuana ~~commits, except as allowed by a Class 2 petty offense.~~ valid medical marijuana registration card;

(2) Consume marijuana openly and publicly, or in a manner that endangers others;

(3) Transfer, dispense, or sell marijuana, provided, however, that the transfer of one ounce or less of marijuana without remuneration to a person who is twenty-one years of age or older shall not be unlawful, and provided further, that the lawful transfer, dispensing or selling of marijuana by;

(4) Possess, grow, process, or transport more than six marijuana plants or more than three mature, flowering marijuana plants, except as permitted for a licensed retail or medical marijuana establishment; or

(5) Display marijuana on Town property.

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(c) Notwithstanding the provisions of this section, it shall not be unlawful for a person twenty-one years of age or older to possess, grow, process, or transport no more than six marijuana plants, with three or fewer being mature, flowering plants, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and the marijuana produced by the plants on the premises is not made available for sale.

Sec. (Ord. 92-04 §1)

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#### **10-144. - False identification.**

(a) It is unlawful for any person under the age of twenty-one to present a false, fictitious, or counterfeit identification when purchasing or attempting to purchase marijuana.

(b) It is unlawful for any person twenty-one years of age or older to present a false, fictitious, or counterfeit identification when purchasing or attempting to purchase marijuana.

#### **Sec. 10-145. - Procuring marijuana for or by a minor; sales to a minor.**

(a) It is unlawful for any person to purchase for consumption or possession by, to otherwise provide for consumption or possession by, or to sell to, any person under the age of twenty-one years, marijuana.

(b) It is unlawful for any person under the age of twenty-one to possess, attempt to purchase, purchase or obtain marijuana, either directly or indirectly, or through an intermediary, by misrepresentation of age or by any other means.

Secs. 10-144, 145—10-160. - Reserved.

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### **ARTICLE VIII - Offenses Relating to Alcoholic Beverages**

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#### **Sec. 10-161. - Definitions.**

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For purposes of this Code, the following words shall have the meanings ascribed hereafter:

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Definitions in this code follow definitions in Colorado liquor code, except where otherwise indicated.

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(1) *Alcoholic beverages* or *alcoholic liquors* means malt beverages, vinous or spirituous liquors.

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(2) *Ethyl alcohol*, also commonly called *ethanol*, *drinking alcohol* or simply *alcohol*, is the principal type of alcohol found in alcoholic beverages, produced by the fermentation of sugars by yeasts.

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(2) *Fermented malt beverage* means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent (0.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight.

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(3) *Malt liquors* 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 three and two-tenths percent (3.2%) of alcohol by weight.

(4) *Spirituous liquors* means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (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.

(5) *Vinous liquors* means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (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. 92-04 §1)

**Sec. 10-162. - Sales near schools.**

It shall be unlawful for any person to sell, offer or expose for sale or gift, beer or any vinous, spirituous or malt liquors within a distance of two hundred fifty (250) feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. This prohibition shall not, however, affect the rights of any person now 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 this time authorizing such business within the restricted area hereby established.

(Prior code 8-6-8; Ord. 92-04 §1)

**Sec. 10-163. - Regulations concerning fermented malt beverages.**

- (a) It is unlawful to sell fermented malt beverage to any person under the age of twenty-one (21) years, or to any person between the hours of midnight and 5:00 a.m., or for any person under twenty-one (21) years to purchase or possess the same. It is unlawful to permit any fermented malt beverages to be sold or dispensed by a person under the age of twenty-one (21) years or to permit any such person to participate in the sale or dispensing thereof.
- (b) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be of the age of twenty-one (21) years or more for the purpose of purchasing within the Town any fermented malt beverage.
- (c) It is unlawful for any person over the age of twenty-one (21) years to purchase or attempt to purchase fermented malt beverage for a person under the age of twenty-one (21) years.
- (d) It is unlawful to fail to display at all times in a prominent place on premises licensed for retail sale of fermented malt beverages a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches, with each letter to be a minimum of one-half (½) inch in height, which shall read as follows:

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~~IT IS ILLEGAL TO SELL 3.2 BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.~~

~~IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.~~

~~IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OVER FOR YOU TO PURCHASE 3.2 BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.~~

~~FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.~~

- ~~(e) It shall be unlawful for any minor under twenty-one (21) years of age to have in his or her possession fermented malt beverages in public places, including but not limited to, public streets, alleys, roads or highways.~~

~~(Ord. 92-04 §1)~~

~~Sec. 10-164. Regulations concerning alcoholic beverages.~~

~~(a) It shall be unlawful for any person to sell alcoholic beverages to any person under the age of twenty-one (21) years or to permit any alcoholic beverages to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.~~

~~(b) It shall be unlawful for any minor under twenty-one (21) years of age to have possess or consume ethyl alcohol in his or her possession alcoholic beverages in public places, including but not limited to, public streets, alleys, roads or highways. the Town.~~

~~(c) It shall be unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any article which the person under the age of twenty-one (21) years of age is forbidden by law to purchase or possess.~~

~~(Prior code 8-6-13; Ord. 92-04 §1)~~

~~Sec. 10-165. Minors prohibited in taverns; exceptions; signs to be posted.~~

~~(a) d) It shall be unlawful to serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person who is the proprietor or keeper of a tavern to employ or permit any minor under the age of twenty-one (21) years to frequent or be in or about such place unless accompanied by such minor's parent or to drink any intoxicating liquors or beer or any other fermented malt beverage in or about the same or to engage or participate in any game of billiards or any game, bet or wager with any cards or any other gambling device or any other game whatsoever in or about such place.~~

~~(b) It shall be the duty of any, a visibly intoxicated person who is the proprietor or keeper of a tavern to post conspicuously in his or her place of business the following sign: or a known habitual drunkard.~~

~~Minors under the age of twenty-one (21) years not allowed here unless accompanied by parents.~~

~~Failure to so post sign shall constitute an unlawful act.~~

~~(Prior code 8-6-4)~~

~~Sec. 10-166164. - Fights at bars or disturbances.~~

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No licensee shall permit any disturbance, undue noise or unlawful or disorderly act or conduct by any person or group of persons upon the premises.

(Ord. 92-04 §1)

**Sec. 10-167-165. - Possession and consumption of alcoholic beverages in public prohibited.**

(a) No person within the Town limits shall possess an opened container of or consume any malt, vinous or spirituous liquor or fermented malt beverage in public, except upon premises licensed for consumption of the liquor or beverage involved.

(b) For purposes of this Section, *opened container* means any container other than an original closed container as sealed or closed for sale to the public by the manufacturer or bottler of the liquor or beverage, or any container other than the sealed container prepared by a retailer for alcohol takeout or delivery in conjunction with state law. If an original container has been unsealed, undone or opened in any manner, it is an opened container for purposes of this Section.

(c) For purposes of this Section, *in public* means in or upon any public highway, street, alley, walk, parking lot, building, park or other public property or place, whether in a vehicle or not.

(Ord. 98-02 §1)

**Secs. 10-168-109—10-190. - Reserved.**

**ARTICLE IX - Offenses Against Public Peace, Order and Decency**

**Sec. 10-191. - Indecent exposure.**

(a) A person commits indecent exposure if he or she knowingly exposes 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.

(b) ~~Indecent exposure is a misdemeanor.~~

(Ord. 92-04 §1)

**Sec. 10-192. - Storage of flammable liquids.**

It shall be is unlawful to store or cause to be stored or parked 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.

(Prior code 8-5-1)

**Sec. 10-193. - Abandoned containers, wells or cisterns.**

It shall be is unlawful for any person to leave or permit to remain outside of any dwellings, buildings or other structures or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded

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ice box, refrigerator or other container which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device.

(Prior code 8-5-3)

**Sec. 10-194. - Explosives.**

It ~~shall be~~ unlawful for any person to store within the Town limits any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high five hundred (500) caps or other devices used for the detonation of such high explosives; other than gunpowder in conjunction with the lawful use of firearms and associated ammunition.

(Prior code 8-5-5)

~~Sec. 10-195. - False alarms.~~

~~Any person who shall intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor.~~

(Prior code 8-5-6)

**Sec. 10-196. - Assault.**

(a) A person commits the crime of assault if he or she causes bodily injury to another person. The causing of pain upon another person shall be prima facie evidence of bodily injury.

(b) It ~~shall be~~ unlawful to assault another person.

(Prior code 8-5-7; Ord. 92-04 §1)

**Sec. 10-197. - Harassment; stalking.**

(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 or, without the consent of the owner thereof, onto private property or into a private residence;
- (4) Initiates Directly or indirectly initiates communication with a person or directs language toward another person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system, or other interactive electronic medium in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or

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proposal by telephone ~~which, computer, computer network, computer system, or other interactive electronic medium that~~ is obscene; or

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(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property and the abuse or threat tends to incite an immediate breach of the peace; or

(7) Repeatedly insults, taunts or challenges another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

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~~(c) Harassment is a misdemeanor.~~

~~(d)(c)~~ Any act prohibited by Subparagraph (4) of Subsection (a) of this Section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

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~~(Ord. 92-04 §1; Ord. 97-05, §§I, II)~~

#### **Sec. 10-198. - Disorderly conduct.**

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(a) A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

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(1) Makes a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to incite an immediate breach of the peace;

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(2) Abuses or threatens a person in a public place in an obviously offensive manner;

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(3) Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy;

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(4) Fights with another in a public place except in an amateur or professional contest of athletic skill;

(5) Not being a peace officer, displays 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 in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under Subsection (a)(2) of this Section that the actor had significant provocation for his or her abusive or threatening conduct.

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~~(c) An offense under Subsection (a)(1) to (a)(3) of this Section is a Class 1 petty offense; and an offense under Subsections (a)(4) to (a)(6) is a misdemeanor.~~

~~(Ord. 92-04 §1)~~



**Sec. 10-199. - Disrupting lawful assembly.**

(a) A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, including religious worship, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means.

(b) ~~Disrupting lawful assembly is a misdemeanor.~~

~~(Ord. 92-04 §1)~~

**Sec. 10-200. ~~Disturbing religious worship.~~**

~~It shall be unlawful for any person to disquiet or disturb any congregation or assembly for religious worship by making a noise, by rude or indecent behavior or by profane discourse within their place of worship, or so near the same as to disturb the order or solemnity of the meeting.~~

~~(Prior code 8-5-13)~~

**Sec. 10-201. - 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 ~~Class 1 petty offense~~ if he or she:

- (1) Loiters for the purpose of unlawful gambling;
- (2) Loiters for the purpose of engaging or soliciting another person to engage in prostitution.
- (3) 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 one hundred (100) feet of school grounds when persons under the age of eighteen (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
- (4) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-141(1) of this Code.

(c) It ~~shall be~~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 grievance, either in the course of labor disputes or otherwise.

~~(Ord. 92-04 §1; Ord. No. 12-20-2016B, § 1, 12-20-2016)~~

**Sec. 10-202. ~~Desecration of venerated objects.~~**

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- (a) — A person commits a misdemeanor if he or she knowingly desecrates any public monument, structure or place of worship or burial or desecrates in a public place any other object of veneration by the public or a substantial segment thereof.
- (b) — The term *desecrate* means defacing, damaging, polluting or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his or her action or its result.

(Ord. 92-04 §1)

**Sec. 10-203201. - Hindering transportation.**

It is unlawful for any person commits a misdemeanor if he or she to knowingly and without lawful authority forcibly stopsstop and hindershinder the operation of any vehicle used in providing transportation services of any kind to the public or to any person, association or corporation.

(Ord. 92-04 §1)

**Sec. 10-204. - Throwing of stones or missiles.**

No person shall throw or shoot any stone or other missile at or upon any person, animal, public or private property, building, structure, tree or shrub.

(Prior code 8-5-19)

**Sec. 10-205. - Publications inciting hatred and violence.**

It shall be unlawful for any person to publish, distribute or cause to be published or distributed any circular, pamphlet, card or dodger, whether anonymous or not, which incites, counsels, promotes or advocates hatred, violence or hostility against any person or group or persons residing in the Town, by reason of race, color, religion or manner of worship.

(Prior code 8-5-20)

**Sec. 10-206202. - Disturbance, breach of peace.**

It is unlawful for any person in the Town to make, countenance or assist in the making of undue or unnecessary noise, riot, disturbance or breach of peace on public or private property so as to disturb or cause to be disturbed the lawful peace and quiet of another person or persons.

(Ord. 92-04 §1)

**Sec. 10-207203. - Public urination.**

No person shall urinate or defecate when in any park within the Town limits, or on any property zoned for residential uses without the express permission of the owner, or within any portion of the Town zoned for business, industrial or public uses, unless such voiding is made into a receptacle that has been provided for that purpose that stores or disposes of the wastes in a sanitary manner and that is enclosed from the view of the general public.

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~~(Ord. 92-04 §1)~~

Secs. 10-~~208~~<sup>204</sup>—10-230. - Reserved.

## ARTICLE X - Offenses Relating to Weapons

**Sec. 10-231. - Unlawfully carrying a concealed weapon.**

- (a) ~~A-It is unlawful for a person commits a misdemeanor if he or she to~~ knowingly and unlawfully:
- (1) Carries a knife with a blade exceeding 3.5", concealed on or about his or her person; or
  - (2) Carries a firearm concealed on or about his or her person.
- (b) It ~~shall be~~is an affirmative defense that the defendant was:
- (1) A person in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying;
  - (2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his, her or another's property, while traveling;
  - (3) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to law; or
  - (4) A peace officer.

~~(Ord. 92-04 §1)~~

**Sec. 10-232. - Prohibited use of weapons.**

It is unlawful for any person commits a misdemeanor if to:

- (1) ~~He or she knowingly~~Knowingly and unlawfully ~~aims~~aim a firearm at another person;
- (2) Recklessly or with criminal negligence, ~~he or she discharges~~discharge a firearm or ~~shoots~~shoot a bow and arrow;
- (3) ~~He or she knowingly sets~~Knowingly set a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and ~~leaves~~leave it unattended by a competent person immediately present; or
- (4) ~~He or she has~~Have in ~~his or her~~their possession a firearm while ~~he or she is~~ under the influence of intoxicating liquor or of a controlled substance, as defined in Section 10-141(1) of this Code. Possession of a permit issued under Section 18-12-105.1, C.R.S., is no defense to a violation of this Section.

~~(Ord. 92-04 §1)~~

**Secs. 10-233—10-250. - Reserved.**

## ARTICLE XI - Offenses Relating to Minors

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**Sec. 10-251. - Juvenile loitering during nighttime hours.**

(a) It ~~shall be~~is unlawful for any person under the age of eighteen (18) years to loiter or to aimlessly drive or ride about, on or about any street, avenue, highway, road, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground, yard, building, place of amusement or eating place, whether public or private, without the consent or permission of the owner or occupant thereof, during the hours ending at 6:00 a.m. and beginning at 12:00 a.m. on Saturday and Sunday mornings and beginning at 10:00 p.m. on Sunday night through Thursday night. No violation of this Section will have occurred if the person under the age of eighteen (18) years is accompanied by a parent, guardian or other adult person over the age of twenty-one (21) years who is authorized by a parent or guardian of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.

(b) Each violation of the provisions of this Section shall constitute a separate offense.

~~(Prior code 8-6-5; Ord. 97-03 §I)~~

**Sec. 10-252. - Juvenile loitering during nighttime hours; parental responsibility.**

(a) It ~~shall be~~is unlawful for the parent, guardian or other adult person having the care and custody of a juvenile under the age of eighteen (18) years to knowingly permit or allow such juvenile to loiter or to aimlessly drive or ride about at the places and within the time prohibited by Section 10-251. The term *knowingly* includes knowledge which a parent should be reasonably expected to have concerning the whereabouts of a juvenile in that parent or guardian's custody. It shall be no defense that a parent, guardian or other person having the care and custody of the juvenile was indifferent to the activities, conduct or whereabouts of such juvenile.

(b) Each violation of the provisions of this Section shall constitute a separate offense.

~~(Prior code 8-6-6; Ord. 97-03 §II)~~

**Sec. 10-253. - Parent or guardian aiding, abetting.**

It ~~shall be~~is unlawful for any person to knowingly permit any minor child or children to aid, abet or encourage in or to approve, encourage, allow, permit, tolerate or consent to the violation by any minor child or children, of any provision of this Article or any ordinances of the Town.

~~(Prior code 8-6-7)~~

~~Sec. 10-254. - Encouraging delinquency.~~

~~It shall be 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~~It is 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.

~~(Prior code 8-6-9)~~

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**Sec. 10-255254. - Services of others.**

It shall be is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase.

(Prior code 8-6-12)

**Sec. 10-256255. - Loitering and other acts in or about schools.**

It shall be 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.

(Prior code 8-6-14)

**Secs. 10-257256, 10-270. - Reserved.**

**ARTICLE XII - Noise**

**Sec. 10-271. - Noise.**

- (a) The making and creation of excessive, unnecessary or unusually loud noises within the limits of the Town is a condition which has existed, and the extent and volume of such noises continue to be of concern.
- (b) The making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the Town.
- (c) The necessity in the public interest for the provisions and prohibitions contained and enacted in this Chapter is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained in this Chapter and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the residents of the Town.

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(Prior code 8-8-1; Ord. 94-02 §1)

**Sec. 10-272. - Prohibited noise.**

(a) The following noises are prohibited:

- (1) The sounding of any horn or signaling device on any automotive, motorcycle or other vehicle on any street or public or private place for a prolonged time, except as a danger warning.
- (2) The operating or permitting to be played or use of any machine or device for the producing or reproducing of sound in such a manner as to exceed the limits in Section 10-272(b), below.
- (3) Yelling, shouting, hooting, whistling or singing, particularly between the hours of 10:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence or of any persons in the vicinity.
- (4) The discharge into the open air of the exhaust of any stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (5) Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (6) Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building other than between 7:00 a.m. and 7:00 p.m. except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Town Clerk, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues.

(b) It ~~shall be~~ unlawful for any person to make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection, preservation or improvement of property or of the health, safety, life or limb of some person. In applying the provisions of this Section, the following noise levels shall create a presumption that the noise unreasonably disturbs the peace and quiet of persons in the vicinity thereof:

Zone	7:00 a.m. to 7:00 p.m.	7:00 p.m. to next 7:00 a.m.
Residential	55 dB(A)	50 dB(A)
Commercial	60 dB(A)	55 dB(A)

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The noise shall be measured on the A weighing scale on a sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.

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For purposes of this Section, measurements with sound level meters shall be made when wind velocity is not more than five (5) miles per hour, or twenty-five (25) miles per hour with a windscreen. Measurements shall be made at a distance of at least twenty-five (25) feet from a noise source located within the public right-of-way, and if the noise source is located on private property or property other than the public right-of-way, at the property line of the property on which the noise source is located.

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(c) The following are exemptions to the noises prohibited by Subsection (b):

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(1) Noises of safety signals, burglar, fire and flood warning devices, and orders given through an electronic voice amplifier by a Law Enforcement Officer or by a member of a Fire Department.

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(2) Noises resulting from any authorized emergency vehicle when responding to an emergency call.

(3) Noises resulting from work authorized by the Town.

(4) The electronic amplification of sound emanating from an event authorized by the Town.

(5) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the Town in accordance with Town policy.

(6) Any noise resulting from activities necessary for the compliance with weeds and brush regulations of Chapter 7, Article III of this Code, or to mitigate fire or other dangers to the property, including but not limited to the use of chainsaws, weed whackers and lawnmowers, so long as said activities occur between the hours of 7:00 a.m. and 7:00 p.m.

~~(Prior code 8-8-1; Ord. 94-02 §§II-IV; Ord. No. 9-1-2015C, § 1, 9-1-2015)~~

#### **Sec. 10-273-272. - Waiver.**

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The Board of Trustees will consider requests for waiver of any portion of Sections 10-271 and 10-272 for an event for which the organizers wish to use electronically amplified sound after the hours prescribed within said sections. After hearing all who wish to speak for or against the request, the Board of Trustees shall determine whether or not the granting of the waiver will unduly disturb the neighborhood in which the event is to take place.

~~(Ord. 94-02 §VI)~~

#### **Sec. 10-274. - Animals.**

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~~It shall be 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 subsection shall not apply to hospitals conducted for the treatment of small animals which are approved by the Health Department, or to premises occupied or used by the Town pound.~~

(Prior code 8-8-1)

~~Sec. 10-275~~**273. - Sirens, whistles, gongs and red lights.**

It shall be is unlawful for any person to carry or use upon a vehicle, other than Marshal's 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 Marshal's and Fire Departments.

(Prior code 8-8-1)

~~Sec. 10-276~~**274. - Mufflers.**

It shall be is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it shall be is unlawful for any person operating any motor vehicle to use a cut-out, bypass or similar muffler elimination appliance.

(Prior code 8-8-1)

**Secs. 10-~~277~~275--10-290. - Reserved.**

**ARTICLE XIII - Fireworks**

**Sec. 10-291. - Definitions.**

*Fireworks* means and includes any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including without limitation the following articles and devices commonly known and used as fireworks: toy cannons, toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrocketes, roman candles and Day-Globombs. The term *fireworks* shall not include fountains, pinwheels, toy pistols, toy guns, sparklers or torches which do not contain explosive charges or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used and toy pistol paper caps manufactured as provided above.

(Prior code 8-5-4)

~~Sec. 10-292. -License required-~~ **Fireworks prohibited.**

No person shall sell at retail any type of fireworks, including fountains, pinwheels, sparklers or torches, until he or she has obtained a license from the Board of Trustees.

(Prior code 8-5-4)

~~Sec. 10-293. -Requirements-~~

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A license to sell fireworks in the Town shall issue only for such sales as are permitted under this Article and state statutes and only when the Board of Trustees has determined that the vendor meets the following requirements:

- (1) That the applicant or, if a corporation, its officers and directors, are of a good moral character and reputation; or
- (2) That the applicant has no plan, intent or scheme to make sales which are prohibited by this Article or the state statutes.

(Prior code 8-5-4)

~~Sec. 10-294. Duration and fees.~~

Such license shall be valid for a period of twelve (12) months from the date of issuance, and a fee as established by resolution of the Board of Trustees shall be payable for the issuance or renewal of such license.

(Prior code 8-5-4; Ord. 92-04 §1)

Sec. 10-295. The use of fireworks, firecrackers, torpedoes, Roman candles, skyrockets and other pyrotechnic displays are prohibited within the corporate limits of the Town; provided however, that the Town may from time to time issue special permits allowing public displays sponsored by the Town.

**Sec. 10-293. - Unlawful to sell or use.**

Except as otherwise provided in this Article, it shall be unlawful for any person to offer for sale, expose for sale, sell or have in his or her possession with intent to offer for sale, sell or use any fireworks within the Town.

(Prior code 8-5-4)

**Sec. 10-296294. - Permits.**

The Board of Trustees shall have the power to grant permits within the Town for supervised public displays of fireworks by the Town, amusement parks and other organizations and groups and to adopt reasonable rules and regulations for the granting of such permits. Application for a permit shall be made in writing at least fifteen (15) days in advance of the date of display. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. Before a permit is granted, the operator and the location and handling of the display shall be approved after investigation by the Marshal's Department or an authorized agent thereof. No permit shall be transferable or assignable.

(Prior code 8-5-4)

**Sec. 10-297295. - Bond.**

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A satisfactory bond shall be required of each permittee in the sum of not less than five hundred dollars (\$500.00), conditioned for the payment of all damages which may be caused either to persons or property by reason of the licensed display and arising from the acts of the permittee, his or her agents, employees or subcontractors. The aggregate liability of the surety on such bond for all damages shall in no event exceed the sum of such bond.

(Prior code 8-5-4)

**Sec. 10-298296. - Disposal of unfired fireworks.**

Any fireworks that remain unfired after the display is concluded shall be immediately disposed of by the Fire Department in a method which is safe for the discharge of that or those particular types of fireworks.

(Prior code 8-5-4)

**Sec. 10-299297. - Seizure of fireworks.**

The Marshal's Department shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this Article.

(Prior code 8-5-4)

**Sec. 10-300298. - Construction.**

This Article shall not be construed to prohibit:

- (1) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell, fireworks to any municipality, fair, association, amusement park or the governing body of any county or district fair organized under the laws of the State;
- (2) Any person from using or exploding fireworks in accordance with the provisions in this Article or as a part of supervised public display at any county or district fair organized under the laws of the State;
- (3) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell, any fireworks which are to be sold and are shipped directly out of State;
- (4) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell or using or exploding any article, device or substance for a purpose other than display, exhibition, noise, amusement or entertainment;
- (5) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell or using or exploding blank cartridges for a show or theater or for signal or ceremonial purposes in organized athletics or sports; or
- (6) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell or using or firing toy pistols, toy guns, sparklers or

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torches which do not contain explosive charges or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulation for packing and shipping of toy paper caps are used and toy pistol paper caps manufactured as provided in this Article.

(Prior code 8-5-4)

**Secs. 10-201-299 — 10-320. - Reserved.**

**ARTICLE XIV - ~~House Cars~~ Recreational Vehicles, Trailers and Tents**

**Sec. 10-321. - Definitions.**

Whenever in this Article the words hereinafter defined or construed in this Section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

*Boat trailer* shall mean a portable structure used for the transport and out-of-water storage of any boat or watercraft.

*Cargo trailer* shall include, but not be limited to, the transport or storage of merchandise, building materials, commerce items, vehicles, tools, refrigeration or manufacturing process, whether of an enclosed design, flatbed, stake bed or tarpaulin covered.

*Horse trailer* or *stock trailer* shall mean any portable structure designed and intended for the transport and temporary shelter of any animal to include, but not inclusive to, horse, cow, llama, pig, goat, sheep or similar form of domesticated or wild animal.

*House car* shall be defined as a **Recreational vehicle** means a vehicular or portable structure designed for or capable of human habitation; unit mounted on wheels and being either self-propelled or drawn by a stock motor vehicle or designed to be loaded onto or affixed to the bed or chassis of a truck or portable structure and wheels, which either has its own motive power or is mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which folds for towing by or drawn by another vehicle and unfolds at a campsite. A recreational vehicle is generally not designed or intended for use as a permanent dwelling or sleeping place, but is to provide temporary living or sleeping quarters for recreational, camping or travel use. The term ~~house car~~ **recreational vehicle** shall include units designated as campers, camper buses, motor homes, tent trailers, travel trailers or any other portable structure designed for or used for human habitation.

*House trailer* as used herein shall mean any structure intended for or capable of human habitation and capable of being moved from place to place either by its own power or power supplied by some vehicle attached or to be attached thereto, and regardless of whether wheels have been removed therefrom and the same set upon a permanent foundation.

*Tent* shall be defined as a collapsible, temporary and portable structure of canvas or other fabric, supported internally or externally by wood, metal poles or framework, wire or cable.

(Amendment to Ord. 76 §1, 1962; Ord. 2 1988 §1; Ord. 03 2008 §1)

**Sec. 10-322. - Placement on public property.**

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(a) No person shall permit any ~~house car~~recreational vehicle or trailer to be parked or stand upon any public street, alley, park or way of the Town for longer than four (4) hours during any twenty-four-hour period. However, the Board of Trustees may, by resolution, designate locations within the Town on property owned by the Town where ~~house cars~~recreational vehicles or trailers may be maintained and which ~~house cars~~recreational vehicles or trailers may be used for living purposes, provided that the same shall pose no threat to the public health and be permitted by the County Health Departments.

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(b) No ~~house car~~recreational vehicle or trailer shall be permitted to be parked upon any street within the corporate limits of the Town so as to extend outward into the street a distance in excess of ten (10) feet measured at right angles with the curb or to project into or obstruct any traffic lane.

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(c) No person shall cause or permit any tent to be erected upon any public street, alley, park or way of the Town.

~~(Ord. 2-1988 §2; Ord. 03-2008 §1)~~

#### **Sec. 10-323. - Placement on private property.**

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(a) No person shall maintain or permit to be maintained any ~~house car~~recreational vehicle upon any private property within the Town when the same is used for living purposes.

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(b) No person shall cause or permit any tent to be erected and/or maintained on private property when the same is used for living purposes for a period exceeding three (3) days.

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~~(Ord. 2-1988 §3; Ord. 92-04 §1)~~

#### **Sec. 10-324. - Inhabiting ~~house trailers~~recreational vehicles.**

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(a) The Board of Trustees hereby finds and declares the keeping or maintenance of house trailers on private property for the purpose of actual abode therein within the corporate limits of the Town to be a public nuisance.

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(b) Hereafter, it ~~shall be~~is unlawful for any person to keep, maintain or permit to be kept or maintained on property owned or leased by such person, within the corporate limits of the Town, any house trailer used for the actual purpose of human habitation; provided, however, that it ~~shall be~~is lawful for any and all persons to maintain and store privately owned house trailers or other mobile abodes, including but not limited to pickup campers, camping trailers, cargo trailers, horse and stock trailers and boat trailers, provided that said named trailers do not exceed twenty-two (22) feet in actual length, and further provided that said mobile abodes, house trailers, pickup campers and camping trailers so stored shall not be used as supplemental abodes, extra sleeping rooms or living quarters in any respect while the same are stored on private property within the Town.

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~~(Amendment to Ord. 76 §§2, 3, 1962; Ord. 03-2008 §1)~~

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#### **ARTICLE XV - ~~R~~Restriction of all Open Fires and Open Burning<sup>1</sup>**

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#### **Sec. 10-325. - Purpose.**

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The purpose of this Ordinance is to preserve and protect the public health, safety, and welfare of the citizens of the Town of Green Mountain Falls, Colorado, by restricting open fires and open burning in the Town of Green Mountain Falls in order to prevent forest fires given the high danger of such fires as a result of atmospheric conditions, including lack of moisture, and other local conditions.

(Ord. No. 02-2013, § 1, 9-17-2013)

#### Sec. 10-326. - Interpretation.

This Ordinance shall be so interpreted and construed as to effectuate its general purpose to preserve and protect the public health, safety, and welfare of the citizens of the Town of Green Mountain Falls, Colorado, by restricting open fires and open burning in order to prevent forest fires given the high danger of such fires in the area.

(Ord. No. 02-2013, § 1, 9-17-2013)

#### Sec. 10-327. - Definitions.

(a) *Open fire or open burning.* For purposes of this Ordinance, open fires or open burning shall be defined as any outdoor fire, including, but not limited to, campfires, warming fires, cooking fires, charcoal grill fires, fires in outdoor wood burning appliances, the use of explosives, outdoor welding or operating an acetylene or other torch with open flame other than in an area cleared of all flammable materials, fireworks of all kinds or brands, and the prescribed burning of fence lines or rows, fields, farmlands, rangelands, wildlands, trash, and debris.

(b) *Fire restriction evaluation guidelines.* That set of evaluation criteria currently in use by local Federal, State and local fire suppression/management agencies for monitoring fuel moistures, fire danger class, current impacts on suppression resources, current fire cause types, fire weather forecasts, and other indicators of predicted fire danger.

(Ord. No. 02-2013, § 1, 9-17-2013)

#### Sec. 10-328. - Stage I restrictions.

Prohibits the following activities:

- (1) Open burning, excepting fires and campfires within permanently constructed fire grates in developed campgrounds and picnic grounds, charcoal grills and permanent outdoor fireplaces at private residences in areas cleared of all flammable materials.
- (2) The sale or use of fireworks; as defined in Section 10-291.
- (3) Outdoor smoking except within an enclosed vehicle or building, a developed recreation site or while stopped in an area at least three (3) feet in diameter that is barren or cleared of all flammable materials.
- (4) Launching of model rockets.
- (5) Portable wood burning firepits or fire rings.

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- (6) Chimineas.
- (7) Outdoor charcoal grills and permanent outdoor fireplace constructed with a spark arrestor on the chimney shall be allowed during Stage I restrictions, provided they are at private residences and in an area cleared of all flammable materials including dry vegetation.

~~(Ord. No. 02-2013, § 1, 9-17-2013)~~

**Sec. 10-329. - Stage II restrictions.**

Prohibits the following activities:

- (1) All open burning as defined in Stage I.
- (2) Outdoor smoking except within an enclosed vehicle or building.
- (3) Outdoor grilling with charcoal.

~~(Ord. No. 02-2013, § 1, 9-17-2013)~~

**Sec. 10-330. - Unlawful acts.**

During Stage I or Stage II restrictions, it ~~shall be is~~ unlawful for any person to build, maintain, attend or use an open fire, conduct an open burn, conduct sales of fireworks, or engage in outdoor smoking other than as explicitly allowed herein, in the Town of Green Mountain Falls including public, private, state, and applicable federal lands.

~~(Ord. No. 02-2013, § 1, 9-17-2013)~~

**Sec. 10-331. - Requirements when and where outdoor fires are permitted.**

- (1) The outdoor fires must be attended at all times.
- (2) Attendees of an outdoor fire must have a suitable extinguisher nearby such as: a functioning garden hose, an extinguisher or dry chemical extinguisher.
- (3) An outdoor fire must be at least twenty (20) feet from structures, including all buildings.

~~(Ord. No. 02-2013, § 1, 9-17-2013)~~

**Sec. 10-332. - Exceptions/exemptions.**

(a) The following shall not be in violation:

- Commercial or community fireworks displays properly permitted.
- Fires contained within liquid-fueled or gas-fueled stoves.
- Indoor fireplaces and wood-burning stoves installed and maintained in compliance with all applicable codes and ordinances.

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- Chainsaws with appropriate spark arrestors.
- Outdoor charcoal grills and permanent outdoor fireplace constructed with a spark arrestor on the chimney shall be allowed during Stage I restrictions, provided they are at private residences and in an area cleared of all flammable materials including dry vegetation.

(b) The burning of irrigation ditches is prohibited by this Ordinance.

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(c) Any Federal, State, or local officer, or member of a rescue or firefighting force organized, employed or contracted by a Federal, State or local firefighting, military, or police protection service in the performance of an official duty.

(d) Any further exemptions to either the meaning of terms or the enforcement of this Ordinance shall be granted only by the Fire Chief, and only if the proposed action is deemed to be safe and mitigable in the Fire Chief's sole discretion based on best fire safety practices.

(Ord. No. 02-2013, § 1, 9-17-2013)

#### **Sec. 10-333. - Implementation of stages.**

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The Fire Chief or his or her designee may monitor fire danger conditions and coordinate with Federal, State and local fire agencies to determine the appropriate stage of restrictions. When the established Fire Restriction Evaluation Guidelines indicate that enforcement of this Ordinance under Stage I restrictions should be reinstated, or that restrictions should be upgraded to Stage II restrictions, the Town of Green Mountain Falls' Public Information Officer or his or her designee shall coordinate with the Fire Chief and provide notification to the public through a general press release to local television, radios and print media, as well as posting at the Green Mountain Falls Town Hall. Likewise, when conditions indicate a reduction in restrictions from Stage II to Stage I, or the suspension of enforcement, the same notification to the public shall occur.

(Ord. No. 02-2013, § 1, 9-17-2013)

#### **Sec. 10-334. - Enforcement agencies/prosecution.**

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This Ordinance shall be enforced by the Green Mountain Falls Marshal, or his or her deputies, including thereby the administering agencies of the State and Federal lands located therein, and they shall have authority to order any person to immediately cease any violation of this Ordinance. This authority shall include, but not be limited to, the right to issue a penalty assessment notice and the right to take such person or persons into temporary custody. Any further exception to the enforcement ability of this Ordinance by the administering agency shall be granted only by the administering agency, and only if the proposed action is deemed by the Fire Chief or the State or Federal administering agency to be safe or mitigable.

(Ord. No. 02-2013, § 1, 9-17-2013)

#### **Sec. 10-335. - Penalties.**

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It is unlawful for any person to violate any of the provisions adopted in this Article. ~~Violation of this Ordinance shall be a misdemeanor under Green Mountain Falls Municipal Code.~~ The penalties for violation of this adopted Code are as set forth in ~~a resolution or subsequent modifications thereof.~~

~~(Ord. No. 02-2013, §in Section 1, 9-17-2013)~~

~~-42 of this Code.~~

~~Secs. 10-336—10-340. - Reserved.~~

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## **CHAPTER 11 - Annexation**

### **ARTICLE I - Licensing Generally**

#### **Sec. 11-1. - Applications.**

Annexations to the Town shall comply with the requirements of the Municipal Annexation Act of 1965, Section 31-12-101, et seq., C.R.S., as amended, and any supplemental requirements set forth in this Article.

#### **Sec. 11-2. - Planning Commission Review.**

The Planning Commission shall review and comment on the proposed annexation for consistency with the Comprehensive Plan and provide a recommendation to the Board of Trustees.

#### **Sec. 11-3. - Submittal Requirements.**

A petition for annexation shall include all documents required by the Municipal Annexation Act of 1965, the standard submittal requirements for development plans set forth in the Zoning Code and the following:

- (a) Appropriate fee;
- (b) Evidence that the property can be served by public sewer, water and storm drainage services;
- (c) Proposed zoning;
- (d) A draft annexation agreement;
- (e) Water rights conveyance agreement or cash-in-lieu; and
- (f) Any other information deemed necessary by the Manager.

#### **Sec. 11-4. - Required dedications.**

- (a) The petitioners shall dedicate or agree to dedicate sufficient land and rights-of-way to the Town for public streets and alleys as set forth in the standards and specifications of the Town and the Comprehensive Plan.
- (b) The petitioners shall dedicate or agree to dedicate sufficient and unobstructed rights-of-way for utility easements and storm drainage to serve the proposed development. The petitioners shall also agree to pay utility or system development fees and tap fees as developed by the Town or appropriate special districts.
- (c) The petitioners shall dedicate or agree to dedicate to the Town or pay cash-in-lieu at the time of platting, land to be used for public purposes.
- (d) The petitioners shall assign to the Town all rights, title and interest in any water rights associated with the property and in all water located beneath the property to be annexed or pay cash-in-lieu for such water rights at the time of platting.
- (e) The petitioners shall be required to construct all roads, utilities and other improvements at their sole expense and according to the requirements, standards and specifications of the Town.



Connection of such improvements to existing Town systems or the dedication of such improvements to the Town shall be at the Town's convenience.

## **CHAPTER 18 - Building Regulations**

### **ARTICLE I - Pike's Peak Regional Building Code**

#### **Sec. 18-1. - Adoption by reference.**

Pursuant to Title 31, Article 16, Part 2, C.R.S., the 2017 Pikes Peak Regional Building Code with amendments adopted by the Pikes Peak Regional Building Department effective as of December 7, 2018, as published by the Pikes Peak Regional Building Department, is adopted by reference as the primary code, including all secondary codes referred to therein, hereinafter collectively referred to as the Pikes Peak Regional Building Code, Regional Building Code, "this Code" or "RBC" and are hereby enacted as the Building Code of the Town for use to regulate building construction activities within the Town.

#### **Sec. 18-2. - Reserved.**

#### **Sec. 18-3. - Availability.**

One (1) copy of the Pike's Peak Regional Building Code is now filed in the office of the Town Clerk and may be inspected during regular business hours.

#### **Sec. 18-4. - Reserved.**

#### **Sec. 18-5. - Administration.**

The Regional Building Department is appointed as the administrator for the purpose of enforcing all the building codes, as adopted, and issuing all building permits for construction.

#### **Sec. 18-6. - Application.**

This Article shall apply to every building or structure within the corporate limits of the Town.

#### **Secs. 18-7—18-20. - Reserved.**

### **ARTICLE II - Uniform Fire Code**

#### **Sec. 18-21. - Adoption.**

(a) All prior editions of the Uniform Fire Code, as well as UFC Standards and Amendments to prior editions are repealed. The 2018 edition of the International Fire Code ("IFC") and International Fire Code Standards are adopted by reference pursuant to Title 31, Article 16, Part 2, C.R.S. and shall have the same force and effect as though it were set out in its entirety in this chapter. The International Fire Code as adopted and all amendments thereto shall apply to every building, structure or asset within the Town.

#### **Sec. 18-22. - Copies; where filed.**

One (1) copy of the 2018 International Fire Code and the amendments to the Code has been and is now filed in the office of the Town Clerk and the same are adopted and incorporated as fully as if set out at length herein.

### **Sec. 18-23. - Modification authority; applications.**

After receiving the recommendations of the Fire Chief, the Building Inspector shall have the authority to modify any of the provisions of the code adopted upon application in writing by the owner or lessee of real estate or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided that the spirit of the code shall be observed, public safety secured and substantial justice done.

**Secs. 18-24—18-50. - Reserved.**

## **ARTICLE III - Street Improvements Required**

### **Sec. 18-51. - Definitions.**

As used in this Article, the following words shall be construed to have the meanings defined below:

- (1) *Developer* shall include any person who applies to build new construction within the Town, whether the same is the owner of the property, developer or subdivider.
- (2) *Street* means a public right-of-way which provides vehicular and pedestrian access to adjacent properties. This term shall include a *highway* as defined herein and shall also include a public or private thoroughfare which affords a primary means of access to abutting property.

### **Sec. 18-52. - Construction of street.**

Prior to the issuance of any building permit for new construction in the Town, the developer seeking issuance of such building permit shall agree as a condition of issuance to construct to Town specifications and dedicate, if necessary, the entire width of any street which adjoins the property for which the building permit is sought, from along the entire length of said property and continuing to and connected with the closest street that is currently accepted and maintained by the Town.

### **Sec. 18-53. - Performance guarantee.**

Before issuance of the building permit, the developer shall install the improvements required by this Chapter, built to Town street standards as adopted and amended from time to time. If the developer prefers not to install the improvements prior to the issuance of the building permit, he or she shall furnish a letter of credit, cash or evidence of cash held in escrow for such purpose, and submit a copy of the escrow agreement to the Board of Trustees for its approval.

### **Sec. 18-54. - Amount.**

The amount of the performance guarantee shall be based on a cost estimate by a registered professional engineer and approved by the Board of Trustees. The actual security shall be one hundred twenty-five percent (125%) of the cost estimate.

### **Sec. 18-55. - Time limit.**

All required improvements shall be installed within six (6) months after issuance of the building permit. In case of undue hardship, an extension not exceeding six (6) months may be granted by the Board of Trustees.

**Sec. 18-56. - Cost recovery.**

When a developer improves the street under Section 18-52, such developer shall be entitled to collect a prorated share of the cost of such improvements from any person who subdivides or develops land adjoining the improved street within fifteen (15) years after the completion of such improvements. A subsequent application for a building permit on any land adjoining such street shall not be approved until its prorata share of the cost of such street improvements that have been put in by the original developer shall have been paid to the Town for the benefit of the original developer. The prorata share shall be calculated by multiplying the total cost of all street improvements by a fraction, the numerator of which is the number of all lineal feet of the current developer's property adjoining the street improvements and the denominator of which is the total number of all lineal feet of all property adjoining the street improvements. The resulting figure is the prorata share that the developer will be required to pay to the Town under this Section, which shall then be remitted by the Town Clerk to the original developer.

**Sec. 18-57. - Release of guarantee.**

When the required improvements are completed, the developer may apply in writing to the Board of Trustees for a partial or full release of the security. Upon receipt of such application, the Board of Trustees shall inspect the completed improvements to ensure that they have been made in accordance with the requirements of these regulations. If satisfactory, the security in sufficient amount to cover the cost of the improvements will be released. When all the improvements have been completed, the full security shall be released. If, however, the improvements are not properly emplaced, the Town, at its discretion, shall have the power to use any of the security held to install the required improvements.

**Secs. 18-58—18-70. - Reserved.**

## CHAPTER 18 - Building Regulations

### ARTICLE I - Pike's Peak Regional Building Code

#### Sec. 18-1. - Adoption by reference.

Pursuant to Title 31, Article 16, Part 2, C.R.S., the 2017 Pikes Peak Regional Building Code with amendments adopted by the Pikes Peak Regional Building Department effective as of December 7, 2018, as published by the Pikes Peak Regional Building Department, is adopted by reference as the primary code, including all secondary codes referred to therein, hereinafter collectively referred to as the Pikes Peak Regional Building Code, Regional Building Code, "this Code" or "RBC" and are hereby enacted as the Building Code of the Town for use to regulate building construction activities within the Town.

(Ord. 5-1985 §I; Ord. 92-04 §1; Ord. 01-2005; Ord. 02-2012 §1; Ord. No. 11-17-B, § 1, 1-5-2016; Ord. No. 2018-01, § 1, 5-15-2018; Ord. No. 2018-10A, § 1, 12-4-2018)

#### Sec. 18-2. - Reserved.

#### Sec. 18-3. - Availability.

One (1) copy of the Pike's Peak Regional Building Code is now filed in the office of the Town Clerk and may be inspected during regular business hours.

(Ord. 5-1985 §II)

#### Sec. 18-4. - Reserved.

#### Sec. 18-5. - Administration.

The Regional Building Department is appointed as the administrator for the purpose of enforcing all the building codes, as adopted, and issuing all building permits for construction.

(Ord. 5-1985 §IV; Ord. No. 2018-01, § 2, 5-15-2018)

#### Sec. 18-6. - Application.

This Article shall apply to every building or structure within the corporate limits of the Town.

(Ord. 5-1985 §VI)

#### Secs. 18-7—18-20. - Reserved.

### ARTICLE II - Uniform Fire Code

#### Sec. 18-21. - Adopted Adoption.

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~~There is adopted by the Town, for the purposes of prescribing regulations governing conditions hazardous to life and property from fire and explosion, that certain document known as the Uniform Fire Code, 1991 edition, recommended by the International Conference of Building Officials and the Western Fire Chiefs Association; further, the National Fire Code shall supplement the Uniform Fire Code and shall govern in cases where the Uniform Fire Code does not address a question in sufficient detail. References to the National Fire Code and Uniform Fire Code shall include all their related pamphlets, booklet editions, standards, recommended practices and manuals.~~

~~(Prior code 6-6-1)~~

~~(a) All prior editions of the Uniform Fire Code, as well as UFC Standards and Amendments to prior editions are repealed. The 2018 edition of the International Fire Code ("IFC") and International Fire Code Standards are adopted by reference pursuant to Title 31, Article 16, Part 2, C.R.S. and shall have the same force and effect as though it were set out in its entirety in this chapter. The International Fire Code as adopted and all amendments thereto shall apply to every building, structure or asset within the Town.~~

#### ~~Sec. 18-22. - Copies; where filed.~~

~~Not less than one (1) copy of each of said codes the 2018 International Fire Code and the amendments to the Code has been and is now filed in the office of the Town Clerk and the same are adopted and incorporated as fully as if set out at length herein.~~

~~(Prior code 6-6-2)~~

#### ~~Sec. 18-23. - Modification authority; applications.~~

~~After receiving the recommendations of the Fire Chief, the Building Inspector shall have the authority to modify any of the provisions of the code adopted upon application in writing by the owner or lessee of real estate or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided that the spirit of the code shall be observed, public safety secured and substantial justice done.~~

~~(Prior code 6-6-3)~~

#### ~~Secs. 18-24—18-60. - Reserved.~~

### ~~ARTICLE III - Revocable Permits~~

#### ~~Sec. 18-61. - Permits required.~~

~~The space below the surface, upon the surface, and above the surface of public property may be used and occupied for any purposes not inconsistent with the provisions of this Article, other provisions of this Code, or other laws or ordinances regulating the use and occupancy of such public property; provided, however, that it shall be unlawful for any person to use or occupy such space, whether below, upon or above the surface of public property, or to construct any device or structure thereupon as hereinafter set forth except by and under the authority of a revocable permit in writing, first granted by the~~

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Board of Trustees and issued by the Town Clerk. In addition, it shall be unlawful for any person to use or occupy such space for any purpose other than that specifically provided for in such revocable permit.

~~(Ord. 10-1984)~~

~~Sec. 18-62. Application for permit.~~

~~An application for a revocable permit shall be filed with the Town Clerk or with the Town Planning Commission on a form or forms provided by the Town Clerk or Planning Commission.~~

~~(Ord. 10-1984)~~

~~Sec. 18-63. Insurance required.~~

~~(a) No revocable permit shall be issued until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee with the Town also named as insured:~~

~~Bodily Injury:~~

~~Each person           \$400,000.00~~

~~Each accident       \$400,000.00~~

~~Property Damage:~~

~~Each accident       \$100,000.00~~

~~Aggregate           \$200,000.00~~

~~-~~

~~Should the Colorado Governmental Immunity Statute, Section 24-10-101 et seq., C.R.S., be amended to impose higher limits of liability upon municipalities, the above insurance amounts shall automatically be increased to reflect such amendment without requiring further amendment of this Article.~~

~~(b) Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the Town Clerk at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance coverage shall be cause for automatic suspension of the permit until the coverage shall be reinstated. All policies shall be kept in force for the period of the permit.~~

~~(Ord. 10-1984)~~

~~Sec. 18-64. Permit fees; renewals.~~

(a) ~~The cost of each permit, to cover the cost of investigation and filing and not as rental for use of Town property, shall be as established by resolution of the Board of Trustees, payable to the Town Clerk upon issuance. Such permit shall not be refundable or proratable in the event of suspension or revocation.~~

(b) ~~All revocable permits shall be renewable unless expressly declared to be nonrenewable on the face of the permit. Renewal shall be obtained from the Town Clerk upon payment of the required fee if the Town Clerk has not received any objections in writing concerning the revocable permit. If such objections are received, the Board of Trustees shall review the renewal request to determine whether the public interest will be jeopardized by renewal of the permit. If it finds that the public interest is jeopardized, the Board of Trustees shall refuse to renew the permit.~~

~~(Ord. 10-1984; Ord. 92-04 §1)~~

~~Sec. 18-65. -- Permit term; expiration date.~~

~~No revocable permit shall be for a term longer than one (1) year. All revocable permits shall expire on December 31 of each year. Renewal of revocable permits shall be requested prior to December 31. If no request is made for renewal, such use, device or structure occupying public property shall be considered to have been discontinued and, if still remaining, will be removed at the expense of the permittee. An additional fee as established by resolution of the Board of Trustees will be charged for each late renewal.~~

~~(Ord. 10-1984; Ord. 92-04 §1)~~

~~Sec. 18-66. -- Issuance of permit; filing.~~

~~The initial application for a permit shall be submitted to the Planning Commission for review. Upon finding that the application is in proper form and that all other conditions and requirements of this Article have been met, the Planning Commission shall forward the application to the Board of Trustees and the Board of Trustees shall grant a revocable permit. The Town Clerk shall countersign and issue such permit in writing and shall keep a file of all such permits in his or her office.~~

~~(Ord. 10-1984)~~

~~Sec. 18-67. -- Assignment of permit.~~

~~There shall be no assignment of any revocable permit, except by express authorization in writing by the Board of Trustees. Such authorization shall not be withheld if the assignee complies with all the requirements of this Article.~~

~~(Ord. 10-1984)~~

~~Sec. 18-68. -- Indemnification.~~

~~The permittee shall be responsible for any and all damages to property or injury to persons arising out of the exercise of the permit or the construction or installation of any device or structure thereunto appertaining, including the maintenance thereof, and the permittee shall indemnify and save harmless the Town and all its officers, agents or employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by a person, persons or property on account of the exercise of the permit, or of any act or omission of the permittee, his or her agents or employees or on account of the failure of the permittee to maintain the structure or device or to provide necessary safety devices to ensure the safety of the public. The permittee shall~~



defend against any such suit, action or claim and pay any judgment, with costs, which may be obtained against the Town, its officers, agents or employees growing out of such injury or damage.

~~(Ord. 10-1984)~~

~~Sec. 18-69. — Additional provisions or conditions.~~

- ~~(a) — The Planning Commission or the Board of Trustees is authorized to impose on the permittee at any time additional conditions or provisions relating to the revocable permit for the use or occupancy of public property that are reasonable and necessary to protect the public health, safety and welfare. Without limiting the generality of the foregoing, the Board of Trustees may consider the requirement of a bond or cash deposit to assure the removal of any device or structure at the expiration of or in the event of revocation of the permit, or to assure the completion of the work within the required time or restoration of the surface of the public space to the former conditions upon completion of installation of the structure or device for which the permit is requested.~~
- ~~(b) — The Board of Trustees is authorized to waive any of the provisions or conditions of this Article in respect to any revocable permit requested by any charitable, educational, nonprofit institution, organization or association whose request for a revocable permit is for a temporary use, device or structure.~~

~~(Ord. 10-1984)~~

~~Sec. 18-70. — Compliance with laws.~~

~~The permittee shall inform himself or herself, keep fully informed, and comply with all federal and state laws and Town ordinances, including but not limited to the various construction codes of the Town as the same may be now or hereafter amended. The permittee shall at all times protect and indemnify the Town, its officers, agents and employees against any claim of liability arising from or based on violations of such laws, ordinances or regulations caused by any actions or omissions of the permittee arising out of the exercise of the permit.~~

~~(Ord. 10-1984)~~

~~Sec. 18-71. — Permit site.~~

~~The site or sites of the permitted use, occupancy or both shall have adequate safeguards to protect the public against damage or injury, and shall be kept in a clean and orderly manner. Failure to maintain a safe, clean and orderly site shall be cause for suspension or revocation if such fault is continued or of aggravated nature.~~

~~(Ord. 10-1984)~~

~~Sec. 18-72. — Use and occupancy of public property.~~

~~The use and occupancy of public property for which revocable permits may be issued is classified in three (3) categories:~~

- ~~(1) — Spaces below the surface of public property (Section 18-73);~~
- ~~(2) — Surface of public property (Section 18-74); and~~
- ~~(3) — Spaces above the surface of public property (Section 18-75).~~

~~(Ord. 10-1984)~~

~~Sec. 18-73. Subsurface use.~~

- ~~(a) The space below the surface of public property may be used and occupied in connection with the use of the adjoining private property or for uses in the public interest not inconsistent with the provision of this Article or other laws and ordinances regulating the use of such property, provided that no use shall be authorized which will interfere with any existing or proposed underground utility line, installation or other lawfully existing underground installation. *Proposed* means scheduled for installation within the following twelve (12) month period.~~
- ~~(b) The person or persons desiring a revocable permit for the use of subsurface space shall submit with the application detailed plans including but not limited to:
  - ~~(1) The exact location, size, dimensions, apertures, ventilation and landscaping of the underground structure or device;~~
  - ~~(2) The period of excavation and space required for excavation;~~
  - ~~(3) A description of protective and safety devices to be used during the excavation, including but not limited to barricades, warning lights and directional signs; and~~
  - ~~(4) The legal description of adjoining land to be served by the permit, if pertinent.~~~~
- ~~(c) The issuance of a revocable permit shall not relieve the permittee of the obligation to obtain from the department having jurisdiction all required permits and to pay the required fees therefor, in accordance with applicable Town ordinances.~~
- ~~(d) The permittee shall pay for the installation and construction of any structure or device below the surface of public property, and shall pay all costs and expenses attendant to the removal of such structure or device and backfilling of such space in the event the permit is rescinded.~~
- ~~(e) Openings from the spaces below the surface of public property shall be covered so as to prevent damage or injury. The permittee may open access to the space below the surface of public property at any time as long as there are adequate safeguards to protect the public from damage or injury, and the time of opening does not inconvenience the public. It shall be unlawful to leave open any aperture to the space below so as to endanger persons, animals or vehicles. Ventilation shall be by means of grates or other devices so as not to endanger persons or property.~~
- ~~(f) The entire construction or installation shall be subject to the direction and approval of the Planning Commission.~~
- ~~(g) A revocable permit may be issued for the following:
  - ~~(1) Vaults.~~
  - ~~(2) Storage tanks. Fire Department approval is required for storage of flammables.~~
  - ~~(3) Equipment or material drops.~~
  - ~~(4) Any other lawful similar uses or occupancies as determined by the Planning Commission.~~~~
- ~~(h) All permittees of subsurface uses now existing shall be required to comply with this Article upon renewal of the permit, except that plans need not be submitted.~~

~~(Ord. 10-1984)~~

~~Sec. 18-74. Surface uses.~~

- ~~(a) The surface of public property may be used and occupied for any purpose not inconsistent with the provisions of this Article, Code or other laws and ordinances regulating the use of such property.~~

- (b) ~~The person or persons desiring revocable permits to use the surface of public property shall submit with the application detailed plans and descriptions, including but not limited to the installation, construction, size and location of the structure or device and the purpose thereof.~~
- (c) ~~The permittee shall pay all costs for the installation and construction of any structure on public property and, further, shall pay all costs and expenses attendant to the removal of such device, structure or use in the event the permit is rescinded.~~
- (d) ~~The construction or installation of a device or structure on the surface of public property shall be subject to the direction of the Planning Commission or its designated representative.~~
- (e) ~~A revocable permit may be issued for the following uses, structures or devices:~~
  - (1) ~~Bicycle parking racks.~~
  - (2) ~~Newspaper or other vending machines that serve the public interest in a similar manner.~~
  - (3) ~~Benches.~~
  - (4) ~~Telephone booths.~~
  - (5) ~~Flagpoles.~~
  - (6) ~~Trees and shrubbery.~~
  - (7) ~~Collection booths or kiosks (charitable).~~
  - (8) ~~Curbside teller or business services.~~
  - (9) ~~Recessed curbs.~~
  - (10) ~~Conduct of TV and radio interviews.~~
  - (11) ~~Canopies.~~
  - (12) ~~Conduct of promotion, sidewalk or street sales and similar activities. A single permit may be issued to an organization or group sponsoring such activity, provided that all addresses or locations represented by the group shall appear on the application and the permit.~~
  - (13) ~~Any other lawful similar uses or occupancies as determined by the Planning Commission.~~
- (f) ~~The following conditions, as well as the other conditions specified in this Article, shall apply to each of the above-listed uses, structures and devices:~~
  - (1) ~~No device or structure shall be so located or used so as to:~~
    - a. ~~Interrupt the normal flow of vehicular or pedestrian traffic;~~
    - b. ~~Interfere with the public's normal use of the public property upon which the structure, device or use is permitted, such as the overhang of diagonally parked automobiles or the door-opening radius of parallel parked automobiles; or~~
    - c. ~~Interfere with any other device or structure lawfully existing thereon, such as parking meters, water meters, curb cuts, bus stops, etc.~~
  - (2) ~~Whenever possible, devices and structures shall be installed on unpaved or unused areas of sidewalks or in connection with other devices or structures already installed which break the flow of pedestrian traffic.~~
  - (3) ~~Any device or structure shall be installed in such a manner so as to prevent it from being dislodged by any natural force such as wind or by any manmade force such as an act of vandalism.~~
  - (4) ~~Devices and structures permitted shall be so constructed as to reduce so far as is feasible sharp edges or protrusions that could cause injury to persons or damage to property. Devices and structures shall be easily visible and recognizable with regard to the available light from street lighting and light emanating from adjoining property during periods of darkness.~~

(5) ~~Devices and structures shall be installed so as to eliminate the collection of litter under and upon the same insofar as possible and to facilitate cleaning of the adjacent area of litter and snow.~~

(g) ~~All permittees with uses, devices or structures now existing shall be required to comply with the provisions of this Article; except for the submission of plans.~~

NOTE: The most recently adopted edition of the Uniform Building Code permits the temporary use of public property during construction or demolition. No revocable permits are required for such activities unless there is a deviation from the Uniform Building Code as amended and modified.

~~(Ord. 10-1984)~~

~~Sec. 18-75. Spaces above surface of public property.~~

(a) ~~The space above the surface of public property may be used and occupied in connection with the use of adjoining private property or for uses in the public interest not inconsistent with the provisions of this Article, Code or other laws and ordinances regulating the use of such property.~~

(b) ~~The person or persons desiring a revocable permit shall submit with the application detailed plans including but not limited to the exact location, size, dimensions and access to the aboveground device or structure.~~

(c) ~~The permittee shall pay for the construction and installation of any device or structure above the surface of public property and, further, shall pay all costs attendant on removing the device or structure in the event the permit is rescinded.~~

(d) ~~The construction or installation of the device or structure above the surface of public property shall be subject to the direction of the Planning Commission or its designated representative.~~

(e) ~~A revocable permit may be issued for the following uses, structures or devices: Any other lawful similar uses or occupancy to those permitted by the Uniform Building Code and Uniform Sign Code as determined by the Planning Commission, provided that no device or structure of a permanent nature shall extend beyond the curbline regardless of the height of the structure, and provided further that no such use, structure or device shall interfere with any existing or proposed overhead utility line or other lawfully existing use or structure. *Proposed* means scheduled for installation within the following twelve (12) month period.~~

(f) ~~All permittees with devices, structures or uses now existing shall be required to comply with this Article upon renewal of the permit; provided, however, that plans need not be submitted.~~

~~(Ord. 10-1984)~~

~~Sec. 18-76. Revocation of permits.~~

~~Any revocable permit may be revoked by the Board of Trustees if such action is deemed to be necessary to protect the public safety, necessity or convenience in the use of public property. Notice shall be given in writing to the permittee at least fourteen (14) days before the effective date of revocation in order to allow the permittee to seek review of the decision by the Board of Trustees. Such notice requirement shall not limit the power of the Board of Trustees to summarily revoke any revocable permit if there is a present existing or imminent danger to the public health, safety or welfare.~~

~~(Ord. 10-1984)~~

~~Sec. 18-77. Appeal procedures.~~

~~Any applicant for a revocable permit, or any person protesting such application who is aggrieved by the action or decision of the Planning Commission or Board of Trustees, may request a hearing to review~~

said decision in front of the Board of Trustees. The request shall be in writing, shall be executed by the applicant, his or her agent or attorney, in duplicate, shall state and specify briefly the grounds for the request and shall be filed with the Town Clerk within ten (10) days after the Planning Commission or Board of Trustees action has been taken. The Board of Trustees shall then give public notice of the request and shall hold a public hearing. The hearing shall be *de novo* and all facts and circumstances shall be heard and considered. At the conclusion of the hearing, the Board of Trustees may deny or revoke the permit, order changes in the conditions and provisions of the permit, or order the issuance, continuance or renewal of the permit.

(Ord. 10-1984)

~~Sec. 18-78. — Obstruction of public ways prohibited; removal.~~

- (a) — It shall be unlawful for any person to place upon or construct upon any sidewalk, street, alley or other public way or upon any natural watercourse or improved drainway, any encumbrance or obstruction, such as but not limited to earthfill, building materials, fences, platforms, stairs, signs, signposts, railings or barricades (hereinafter "offending object"), except under the terms of a revocable permit as provided in this Article.
- (b) — The Planning Commission shall notify in writing the owner, agent or person responsible for the placing or construction of such offending object to remove the same within a reasonable time and restore the public way to its former state. If the offending object has not been removed at the expiration of the time stated in the notice, the Planning Commission or the Board of Trustees shall cause the same to be removed and stored and all necessary correction work performed to restore the public way or watercourse to its former state, all at the expense of the owner.
- (c) — If, within thirty (30) days, the offending object has not been reclaimed and all costs of removal and restoration of the public way paid, the same shall be presumed to have been abandoned and the Board of Trustees may declare the same to be Town property. Thereafter, the same may be used or disposed of in the same manner as other Town property.

(Ord. 10-1984)

~~Secs. 18-79 — 18-90. — Reserved.~~

~~ARTICLE IV — Street Improvements Required~~

~~Sec. 18-91~~51. - Definitions.

As used in this Article, the following words shall be construed to have the meanings defined below:

- (1) *Developer* shall include any person who applies to build new construction within the Town, whether the same is the owner of the property, developer or subdivider.
- (2) *Street* means a public right-of-way which provides vehicular and pedestrian access to adjacent properties. This term shall include a *highway* as defined herein and shall also include a public or private thoroughfare which affords a primary means of access to abutting property.

(Ord. 12-1988 §1)

~~Sec. 18-92~~52. - Construction of street.

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Prior to the issuance of any building permit for new construction in the Town, the developer seeking issuance of such building permit shall agree as a condition of issuance to construct to Town specifications and dedicate, if necessary, the entire width of any street which adjoins the property for which the building permit is sought, from along the entire length of said property and continuing to and connected with the closest street that is currently accepted and maintained by the Town.

~~(Ord. 12-1988 §2)~~

**Sec. 18-9353. - Performance guarantee.**

Before issuance of the building permit, the developer shall install the improvements required by this Chapter, built to Town street standards as adopted and amended from time to time. If the developer prefers not to install the improvements prior to the issuance of the building permit, he or she shall furnish a letter of credit, cash or evidence of cash held in escrow for such purpose, and submit a copy of the escrow agreement to the Board of Trustees for its approval.

~~(Ord. 12-1988 §3)~~

**Sec. 18-9454. - Amount.**

The amount of the performance guarantee shall be based on a cost estimate by a registered professional engineer and approved by the Board of Trustees. The actual security shall be one hundred twenty-five percent (125%) of the cost estimate.

~~(Ord. 12-1988 §4)~~

**Sec. 18-9555. - Time limit.**

All required improvements shall be installed within six (6) months after issuance of the building permit. In case of undue hardship, an extension not exceeding six (6) months may be granted by the Board of Trustees.

~~(Ord. 12-1988 §5)~~

**Sec. 18-9656. - Cost recovery.**

When a developer improves the street under Section 18-9252, such developer shall be entitled to collect a prorated share of the cost of such improvements from any person who subdivides or develops land adjoining the improved street within fifteen (15) years after the completion of such improvements. A subsequent application for a building permit on any land adjoining such street shall not be approved until its prorata share of the cost of such street improvements that have been put in by the original developer shall have been paid to the Town for the benefit of the original developer. The prorata share shall be calculated by multiplying the total cost of all street improvements by a fraction, the numerator of which is the number of all lineal feet of ~~the current developer's property~~ the current developer's property adjoining the street improvements and the denominator of which is the total number of all lineal feet of all property

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adjoining the street improvements. The resulting figure is the prorata share that the developer will be required to pay to the Town under this Section, which shall then be remitted by the Town Clerk to the original developer.

~~(Ord. 12-1988 §6)~~

**Sec. 18-~~97~~57. - Release of guarantee.**

When the required improvements are completed, the developer may apply in writing to the Board of Trustees for a partial or full release of the security. Upon receipt of such application, the Board of Trustees shall inspect the completed improvements to ensure that they have been made in accordance with the requirements of these regulations. If satisfactory, the security in sufficient amount to cover the cost of the improvements will be released. When all the improvements have been completed, the full security shall be released. If, however, the improvements are not properly emplaced, the Town, at its discretion, shall have the power to use any of the security held to install the required improvements.

~~(Ord. 12-1988 §7)~~

**Secs. 18-~~98~~§ — 18-~~116~~11. - Reserved.**

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# **Green Mountain Falls, CO**

**Board of Trustees Meeting**

**July 20, 2021**

**Fire Mitigation Advisory Committee  
Report**



# Fire Mitigation Advisory Committee Update

CUSP GRANTS

IONA/SCOTT AVENUE PROJECT

2021 BUDGET IMPLICATIONS

PRIVATE PROPERTY OWNER ASSISTANCE

FMAC ACTIVE PROJECTS

## CUSP Grant Update – 40 Acres

Grant is funded but awaiting formal award letter from Colorado State Forest Service in August or September.

Most of the grant matching funding is from Colorado Springs Utilities with the balance of the funding from HGMFF and Town of Green Mountain Falls (\$5000)

Grant specifies town owned and HGMFF parcels adjacent to the Pike National Forest to follow along the Thomas Trail.

CUSP's goal (depending on timing for award letter) is to complete 15 acres in 2021.

## CUSP Grant Update – 53 Acres

Grant is not funded. Anticipated pre award date is July 19<sup>th</sup> and Final Award and start date is August 16<sup>th</sup>. CUSP believes these dates are aggressive for Colorado State Forestry and hope for success.

This a THREE YEAR grant which contemplates \$16,975 matching funds from GMF each year. Additional matching is from HGMFF. GMF has budgeted \$16,975 in 2021 earmarked to fund the match. Grant includes a 35 hour in-kind match for time spent planning ie. ROW boundaries.

Grant specifies LARGER town owned and HGMFF parcels; defensible space on town-owned property existing among residential properties (including ROW); and defensible space on private property.

CUSP's 2021 objective will be to focus on small parcels and ROW to accomplish the most work possible in the remainder of the year.

# Iona/Scott Avenue Update

July 1st Colorado State Forest Service provided a draft agreement and Scope of Work to perform a tree mortality assessment of town owned land at Iona/Scott Avenue. Project includes marking trees for removal. Estimated cost - \$500 (Approved by BOT)

Town Manager has stated legal review of the contract and SOW is required by town attorney. No response from Town Manager as to expected date for completion of legal review. Legal cost is likely to exceed the actual cost of the assessment.

Upon approval and acceptance of contract (assuming no changes), CSFS Forester Steve Rudolph will be scheduled to perform assessment.

Following assessment results, the mitigation project will either be included in the CUSP grant or a volunteer team will be formed to begin cutting trees. Earliest action is September but more probable October.

# CUSP Grant GMF 2021 Budget Implications

2021 Budgeted funds for Fire Mitigation - \$17,000.

CUSP Grant Matching Requirements from GMF:

40 acre grant - \$5,000; only 1/3 will be spent in 2021

53 acre grant - \$16,975; amount required unknown

Budgeted funds for CUSP grants may not be spent in 2021.

FMAC will provide more accurate update when grants are formalized.

Consider adding any 2021 remaining unspent funds to 2022 GMF Budget and assume an additional matching grant funding requirement of at least \$20,000.

# CUSP Recommendation to Private Land Owners for Fuels Mitigation Funds

Form a group of neighbors in an area with adjoining or contiguous plots of land. Include those who will commit to a cost sharing program with CUSP.

Develop a list of these people to include name of property owners, address, and approximate lot size.

This list can be presented to CUSP with a request for cost sharing funding. If funding is available, then CUSP will make arrangements to perform an assessment and contract with each property owner for the fuels mitigation project.

If funding is not available, CUSP will use the list of property owners to support a grant request for cost sharing funding for private property owners to perform fuels mitigation.

## FMAC Projects currently in progress

Developing a Notification and Evacuation Plan for approval by BOT to be posted to GMF website.

Developing a risk assessment map of the Town to prioritize and develop future Fuels Mitigation projects for funding and execution.

Exploring methods of providing education to GMF stakeholders regarding methods of fuels mitigation and availability of financial incentives and assistance.

Develop volunteer programs to provide assistance for fuels mitigation.



## The Town of Green Mountain Falls

P.O. Box 524, 10615 Green Mountain Falls Road, Green Mountain Falls, CO 80819  
(719) 684-9414 [www.gmfco.us](http://www.gmfco.us)

### Committee Volunteer Application

Volunteer Position applying for: Board of Trustees

Name: Sunde J. King

Street Address: 10396 El Paso Avenue, P.O. Box 231

City, State: Green Mountain Falls, CO Zip Code: 80819

Phone Number: Cell: (719) 233-2455 Email address: sunde.king@yahoo.com

How many years have you been a resident of Green Mountain Falls: 21

Current Employer/Occupation: Law firms and attorneys, Paralegal

Work Experiences that may apply: Paralegal and accounting

Other Volunteer Experiences that may apply: Treasurer Church in the Wildwood,  
Treasurer Ute Pass Triangle Chamber of Commerce, General Director Sallie Bush Community Building,  
Webmaster Pikes Peak Paralegals, past Treasurer Cub Scout Pack #33  
Any Special Qualifications that may apply to this volunteer position: Service on several Boards with  
an understanding of their roles, the value of our political system, and the responsibilities of each member.

Other Current Volunteer Positions you hold: See above.

Reasons for choosing this Volunteer Opportunity: Service to our community.

\*Please attach any other relevant information/documentation that would enhance your application.

By signing below, you acknowledge that the Town of Green Mountain Falls IS NOT liable for any harm and/or injury sustained while volunteering at any Town facilities or activities.

You also agree that all information you have provided in this application is true to the best of your knowledge.

Volunteer Signature:  Date: June 28, 2021

Are you 18 years or older? YES ☒ NO ☐

If NO, Guardian Signature: \_\_\_\_\_





**The Town of Green Mountain Falls** P.O. Box 524,  
10615 Green Mountain Falls Road, Green Mountain Falls, CO 80819  
(719) 684-9414 [www.gmfco.us](http://www.gmfco.us)

## Committee Volunteer Application

**Volunteer Position applying for:** \_\_Board of Trustees Vacancy\_\_

**Name:** \_\_Todd Dixon\_\_

**Street Address:** \_\_11045 Iona Ave\_\_

**City, State:** \_\_Green Mountain Falls, CO\_\_ **Zip Code:** \_\_80819\_\_

**Phone Number:** \_\_303.918.9443\_\_ **Email address:** \_\_tgdixon1961@gmail.com\_\_

**How many years have you been a resident of Green Mountain Falls:** \_\_a little over one\_\_

**Current Employer/Occupation:** \_\_Retired\_\_

**Work Experiences that may apply:** \_\_Manager Denver ACO Branch FAA (11 yrs); (see resume)\_\_

**Other Volunteer Experiences that may apply:** \_\_Current Planning Commission Chair (1yr); USD 331  
School Board Member (8yrs); Trail Ambassador, Friends of Ute Pass Trails\_\_

**Any Special Qualifications that may apply to this volunteer position:** \_\_I was a Manager in the Federal  
Government (FAA) for over 16 years. Eleven of those years were managing my own regional office. I  
had to deal with employees and employee performance issues; as well as maintaining relations and  
overseeing the companies we had oversight responsibilities for. \_\_

**Other Current Volunteer Positions you hold:** \_\_Planning Commission Chair\_\_

**Reasons for choosing this Volunteer Opportunity:** \_\_I want to do what I can to help and give back to  
the Town. My family has been coming to GMF every year since the mid 1960s and we have always  
loved the time we spent here.

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\*Please attach any other relevant information/documentation that would enhance your application.

By signing below, you acknowledge that the Town of Green Mountain Falls IS NOT liable for any harm and/or injury sustained while volunteering at any Town facilities or activities.

You also agree that all information you have provided in this application is true to the best of your knowledge.

Volunteer Signature:  Date: 6/29/2021

Are you 18 years or older? YES X NO   

If NO, Guardian Signature: \_\_\_\_\_

# Todd Dixon

11045 Iona Ave  
PO Box 627  
Green Mountain Falls, Colorado,  
80819  
**(303) 918-9443**  
**tgddixon1961@gmail.com**

## EMPLOYMENT EXPERIENCE

### **Federal Aviation Administration, Denver, CO — Manager, Denver ACO Branch**

April 2009 - June 2020

My office was responsible for the certification, delegation oversight and continued airworthiness of all aircraft and aircraft parts and companies in the Colorado, Utah, Wyoming areas. Our responsibility also included some companies in Montana. I had a staff of up to 11 employees. Notable activities included Type Certification of the CH-46, Ch-47 (Chinooks) and UH-60 (Blackhawks) for use in the firefighting role.

### **Federal Aviation Administration, Wichita, KS — Acting Manager; Electrical/Avionics Branch Manager; Program Manager; Aerospace Engineer**

September 1997 - March 2009

This office was responsible for the certification, delegation oversight and continued airworthiness of all aircraft and aircraft parts and companies in the upper midwest. My activities included development of Policy for Integrated Modular Avionics systems; Type Certification of the Hawker-Beech Model 4000 and T-6 Texan II as well as several Airworthiness Directives that helped correct operational aircraft design issues.

### **Learjet, Wichita, KS — Model 45 Electrical/Avionics Group Engineer; Senior Engineer**

August 1988 - September 1997

I designed and certified many of the fly-by-wire systems on the Learjet Model 45. I was the Group Engineer for the Learjet Model 45 avionics and electrical systems and had up to 30 employees reporting to me. I was also responsible for special missions modifications, electric windshields and autopilot systems on other Models of the Learjet aircraft.

### **Boeing Military Airplane Company, Wichita, KS — Engineer**

January 1986 - August 1988

Responsibilities included maintaining nuclear survivability of the AWACS aircraft and cruise missiles. I also designed a circuit card for the V-22 Osprey Interface Units.

## TRAINING

Numerous FAA Management  
Training Courses

Numerous FAA Technical  
Training Courses

Bachelor of Science in  
Electrical Engineering from  
Wichita State University in  
Wichita Kansas

School Board Member  
training

## VOLUNTEER EXPERIENCE

Green Mountain Falls  
Planning Commission Chair

Green Mountain Falls Trail  
Ambassador

Friends of Ute Pass Trails  
Board of Directors

Unified School District 331  
Board Member - 8 years