HOME RULE CHARTER

AND CODE OF THE

TOWN OF TELLURIDE, COLORADO

2008

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Book No. _____

2008

OFFICIALS

of the

TOWN OF TELLURIDE

Mayor
John Hans Pryor

Mayor Pro Tem
Roberta Peterson

Town Council
Andrea Benda
Mark Buchsieb
Stu Fraser
Jill Masters
Bob Saunders

Town Manager
Frank Bell

Town Clerk
M. J. Schillaci

Town Attorney
Kevin Geiger

PREFACE

The Town of Telluride, a Home Rule Town, has published its Municipal Code in a format which features the following:

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

The *three-place section numbering system* places the chapter number first, followed by the article number and section number, separated by hyphens. This system allows for new sections to be inserted in the future. Each section may be cited by the chapter, article and section number which are in sequence within each chapter.

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

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

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

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

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SUPPLEMENTATION

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

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

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

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

AMENDMENTS

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

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

> The "Telluride Municipal Code" is amended by the addition thereto of a new Section 2-2-90, which is to read as follows:
>
> (Set out full section number, title and contents)

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

> The "Telluride Municipal Code" is amended by the addition of the following:
>
> (Set out section title and contents)

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

> Section 2-2-90 of the "Telluride Municipal Code" is repealed in its entirety and readopted to read as follows:
>
> (Set out section number, title and entire contents of the readopted code section)

or as follows:

> Section 2-2-90 of the "Telluride Municipal Code" is amended to read as follows:
>
> (Set out section number, title and entire contents of the amended code section)

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

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

COLORADO CODE PUBLISHING COMPANY

TOWN OF TELLURIDE

MASTER TABLE OF CONTENTS

MASTER TITLE PAGE ..... **i**

OFFICIALS OF THE TOWN ..... **ii**

PREFACE ..... **iii**

SUPPLEMENTATION ..... **v**

MASTER TABLE OF CONTENTS ..... **vi**

- **CHARTER TITLE PAGE** ..... **C-i**
- **CHARTER TABLE OF CONTENTS** ..... **C-iii**
- **CHARTER** ..... **C-vii**
- **CHARTER INDEX** **CI-1**
- **CODE TITLE PAGE** ..... **M-i**
- **CODE TABLE OF CONTENTS** ..... **M-xxix**

TABLES

- **CODE COMPARISON TABLE** **T-1**
- **ORDINANCE LIST AND DISPOSITION TABLE** **T-6**

INDEX **I-1**

ADOPTING ORDINANCE ..... **M-v**

HOME RULE CHARTER

OF THE

TOWN OF TELLURIDE

1978

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TELLURIDE HOME RULE CHARTER

TABLE OF CONTENTS

Charter Table of Contents ..... **C-ii**

Prefatory Synopsis and Certificate of Final Adoption ..... **C-vi**

ARTICLE I **General Provisions** **C-1**
- Section 1.1 Town of Telluride C-1
- Section 1.2 Municipal Powers C-1
- Section 1.3 Form of Government C-1

ARTICLE II **Elections** **C-1**
- Section 2.1 Municipal Elections C-1
- Section 2.2 Nonpartisan Elections C-1
- Section 2.3 Election Precincts C-1
- Section 2.4 Electors C-2
- Section 2.5 Election Commission C-3
- Section 2.6 Nominations C-3
- Section 2.7 Recall C-3
- Section 2.8 Ballots C-3
- Section 2.9 Applications for Absentee Ballots/Mail-In Ballots C-3
- Section 2.10 Colorado Municipal Election Laws Adopted with Reservation C-3
- Section 2.11 Amendment C-3

ARTICLE III **Town Council** **C-3**
- Section 3.1 The Town Council C-3
- Section 3.2 Terms of Office C-4
- Section 3.3 Qualifications C-4
- Section 3.4 Compensation C-4
- Section 3.5 Vacancies C-4
- Section 3.6 Powers C-4
- Section 3.7 Oath of Office C-5

ARTICLE IV **Town Council Procedure** **C-5**
- Section 4.1 Organizational Meeting C-5
- Section 4.2 Regular Meetings C-5
- Section 4.3 Special Meetings C-5
- Section 4.4 Emergency Meetings C-5
- Section 4.5 Quorum; Adjournment of Meeting C-6
- Section 4.6 Meetings to be Public C-6
- Section 4.7 Council Actions C-6
- Section 4.8 Voting C-6

ARTICLE IV Town Council Procedure (Cont'd)
Section 4.9 Action by Ordinance Required C-6
Section 4.10 Extraordinary Majority C-7
Section 4.11 Form of Ordinance C-7
Section 4.12 Ordinance Procedure C-7
Section 4.13 Emergency Ordinances C-7
Section 4.14 Codification C-8
Section 4.15 Codes C-8
Section 4.16 Disposition of Ordinances C-8
Section 4.17 Public Records C-8
Section 4.18 Conflicts of Interest C-8

ARTICLE V Mayor C-8
Section 5.1 Mayor Pro Tem C-8
Section 5.2 Duties and Powers of Mayor C-9
Section 5.3 Duties and Powers of Mayor Pro Tem and Interim Mayor Pro Tem C-9
Section 5.4 Vacancy of Mayor Pro Tem C-9
Section 5.5 Vacancy of Mayor C-9

ARTICLE VI Initiative And Referendum C-9
Section 6.1 General Authority C-9
Section 6.2 Petitioners' Committee; Affidavit C-9
Section 6.3 Petitions C-10
Section 6.4 Procedure After Filing C-10
Section 6.5 Referendum Petitions; Suspension of Effect of an Ordinance C-11
Section 6.6 Action on Petitions C-11
Section 6.7 Submission by Council C-11
Section 6.8 Results of Election C-11

ARTICLE VII Town Administration C-12
Section 7.1 Town Manager C-12
Section 7.2 Acting Manager C-12
Section 7.3 Powers and Duties of Town Manager C-12
Section 7.4 Removal of Town Manager C-13
Section 7.5 Relationships C-13
Section 7.6 Town Treasurer C-13
Section 7.7 Town Treasurer Duties C-13
Section 7.8 Town Clerk C-13
Section 7.9 Creation, Consolidation and Merging of Departments C-14

ARTICLE VIII Legal And Judiciary C-14
Section 8.1 Town Attorney C-14
Section 8.2 Judiciary C-14

ARTICLE IX Boards and Commissions C-15
Section 9.1 Existing Boards and Commissions C-15
Section 9.2 Composition C-15
Section 9.3 Establishment C-15
Section 9.4 Removal of Members C-15
Section 9.5 Vacancies C-15

ARTICLE X Finance C-15
Section 10.1 Fiscal Year C-15
Section 10.2 Preparation and Submission of Budget and Budget Message C-16
Section 10.3 Budget Message C-16
Section 10.4 Budget Content C-16
Section 10.5 Capital Program C-16
Section 10.6 Public Hearing C-17
Section 10.7 Budget Amendment C-17
Section 10.8 Budget Adoption C-17
Section 10.9 Property Tax Levy C-17
Section 10.10 Contingencies C-17
Section 10.11 Public Records C-17
Section 10.12 Amendments After Adoption C-17
Section 10.13 Independent Audit C-18

ARTICLE XI Municipal Borrowing C-18
Section 11.1 Forms of Borrowing C-18
Section 11.2 General Obligation Bonds C-18
Section 11.3 Revenue Bonds C-19
Section 11.4 Refunding Bonds C-19
Section 11.5 Special or Local Improvement Bonds C-19
Section 11.6 Short-Term Notes C-20
Section 11.7 No Additional Limitations C-20

ARTICLE XII Taxation C-20
Section 12.1 Authority to Levy Taxes C-20

ARTICLE XIII Public Utilities And Franchises C-21
Section 13.1 General Powers C-21
Section 13.2 Water Rights C-21
Section 13.3 Utility Rates and Service Areas C-21
Section 13.4 Granting Franchises C-21
Section 13.5 Franchise Review C-21
Section 13.6 Franchise Records C-21
Section 13.7 Existing Franchises C-21

ARTICLE XIV Miscellaneous Legal Provisions C-21
Section 14.1 Eminent Domain C-21
Section 14.2 Reservation of Power C-21

ARTICLE XIV Miscellaneous Legal Provisions (Cont'd)
Section 14.3 De-Annexation C-22
Section 14.4 Liability of Town C-22
Section 14.5 Severability of Charter Provisions C-22
Section 14.6 Charter Amendments..... C-22
Section 14.7 Interpretations..... C-22
Section 14.8 Penalties C-23

ARTICLE XV Transition C-23
Section 15.1 Effective Date of Charter C-23
Section 15.2 First Municipal Election Following Charter Adoption ... C-23
Section 15.3 Prior Town Legislation..... C-23
Section 15.4 Present Elected Officials to Continue in Office C-23
Section 15.5 Saving Clause..... C-23
Section 15.6 Transition for Extended Terms..... C-23

ARTICLE XVI Town Meeting..... C-24
Section 16.1 Town Meeting C-24
Section 16.2 Call to Town Meeting..... C-24
Section 16.3 Powers of the Town Meeting C-24
Section 16.4 Town Meeting Moderator C-24
Section 16.5 Town Meeting Procedure C-24
Section 16.6 Ratification by Council C-25
Section 16.7 Veto C-25

CHARTER INDEX CI-1

PREFATORY SYNOPSIS

The original Home Rule Charter for the Town of Telluride was prepared by the nine members of the Telluride Charter Commission in accordance with the law and was adopted October 27, 1977.

The functions of government are carried out by a popularly elected, seven-member Town Council. Councilpersons are elected for four-year staggered terms in yearly elections. A Mayor is elected directly by the voters and a Mayor Pro Tem is elected from among its membership. The Town Council directs a hired Town Manager who serves as the Town's chief administrative officer.

Other matters covered in the Charter include elections, general powers of the people, Town finances, borrowing procedures, public utilities, taxation, improvement districts and transition procedures.

This Charter vests the citizens of Telluride with every political power for Home Rule self-government permitted under the Constitution of the State of Colorado. We trust that this Charter will stimulate integrity in public affairs.

CERTIFICATE OF FINAL ADOPTION

We, the undersigned, present members of the Town of Telluride Charter Commission, duly elected by the people of Telluride, Colorado at a special election held on January 11, 1977, or duly appointed according to law, under authorization of Article XX, Constitution of the State of Colorado, to frame a Home Rule Charter for the Town of Telluride, Colorado, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Commission on the 27th day of October, 1977, for submission to the people of Telluride at a special election to be held on January 24, 1978.

Done in triplicate at Telluride, Colorado, this 27th day of October, 1977.

TERRY TICE
Chairman

James Bedford	Alan Ranta
James L. Novack	Steven D. Suloway
James R. Perrin	Susan L. Theile
Roberta Peterson	Richard D. Unruh

I hereby certify that the above and foregoing document is the Charter adopted at a Special Election for the Town of Telluride, Colorado, held Tuesday, January 24, 1978, and duly filed by me with the Secretary of State of the State of Colorado.

ATTEST:

/s/ _____
Carolyn S. Shaw
Town Clerk of Telluride, Colorado

ARTICLE I

General Provisions

Section 1.1. Town of Telluride.

The municipal corporation previously existing as the Town of Telluride shall remain and continue in perpetuity as a body politic and corporate under this Charter, with the same name and boundaries until changed in accordance with law.

Section 1.2. Municipal Powers.

The Town of Telluride shall have and may exercise all powers, functions, rights and privileges allowed or granted to any municipalities including home rule cities or towns by law, except as limited or expressly forbidden by this Charter or the Constitution of the State of Colorado or the United States.

All powers of the Town of Telluride shall be exercised in a manner prescribed by this Charter, or if the manner is not prescribed then in such a manner as may be prescribed by ordinance, or if no ordinance exists which is applicable, then in such a manner as may be prescribed by statute or other law.

Section 1.3. Form of Government.

All legislative powers granted to the Town of Telluride shall be vested in an elected Town Council. The Town Council shall delegate administrative and executive authority as provided in this Charter, or when not so provided, as it deems necessary, to the Mayor and the Town Manager.

ARTICLE II

Elections

Section 2.1. Municipal Elections.

Commencing in the year 2014, regular municipal elections shall be held on the first Tuesday following the first Monday in November in odd-numbered years unless otherwise required by Colorado Constitution Article X, Section 20 or C.R.S. § 1-41-101, *et seq.* Any special municipal election may be called by resolution or ordinance of the Town Council at least thirty (30) days in advance of such election. The resolution or ordinance calling a special municipal election shall set forth the purpose or purposes of such election. Polling places and Voter Service and Polling Centers for all municipal elections shall be open from 7:00 a.m. to 7:00 p.m. on Election Day. (Amended 1/3/89; 11/4/97; 11/1/05; 11/4/08; 11/5/13)

Section 2.2. Nonpartisan Elections.

All special and regular elections shall be nonpartisan. No candidate for any municipal office shall run under any party label.

Section 2.3. Election Precincts.

The Town shall be divided into one (1) precinct and the boundaries shall be the boundaries of the Town.

The precinct(s) so established shall remain for subsequent elections until otherwise provided by ordinance. (Amended 11/4/08; 11/5/13)

Section 2.4. Electors.

A. Qualifications: A qualified elector is any person eighteen (18) years of age or older on the date of the next election, who has resided within the Town of Telluride for twenty two (22) days immediately preceding the election at which the person offers to vote. In the case of an annexation that changes Town boundaries, any person otherwise qualified to register to vote under the provisions of this Section who has resided within the territory annexed for the time prescribed shall be deemed to have met the residency requirements for the precinct to which the territory was annexed. Persons holding a permanent alien registration card may be qualified electors.

B. Rules for determining residency:

(1) The following rules shall be used to determine the residence of a person intending to register or to vote in any precinct and shall be used by election judges in challenge procedures:

(a)(I) The residence of a person is the principal or primary home or place of abode of a person. A principal or primary home or place of abode is that home or place in which a person's habitation is fixed and to which that person, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. A residence is a permanent building or part of a building and may include a house, condominium, apartment, room in a house or mobile home. No vacant lot or business address shall be considered a residence.

(II) The fixed address of a qualified elector may include a shelter, a homeless service provider or a private residence, but it may not include a post office box or general delivery at a post office.

(b) In determining what is a principal or primary place of abode of a person, the following circumstances relating to the person shall be taken into account: Business pursuits, employment, income sources, residence for income or other tax purposes, age, marital or civil union status, residence of parents, spouse and children, if any, leaseholds, situs of personal and real property, existence of any other residences and the amount of time spent at each residence and motor vehicle registration.

(c) The residence given for voting purposes shall be the same as the residence given for motor vehicle registration and for state income tax purposes.

(d) A person shall not have considered to have gained a residence in Telluride while retaining a home or domicile elsewhere.

(e) If a person moves to another State, County, Town or out-of-Town precinct with the intention of making it a permanent residence, that person shall be considered to have lost Town of Telluride residence after twenty two (22) days' absence from Telluride unless the person has evidenced an intent to retain residence in Telluride by a self-affirmation filed in writing with the Town Clerk. (Amended 11/5/13)

C. Registration: The Town Clerk shall register any qualified elector who appears in person at the office of the Clerk at any time when registration is permitted. However, to qualify to vote in an upcoming municipal election, electors must be registered before or on the date of such election. (Amended 11/5/13)

D. Emergency registration: Emergency registration is allowed only if the elector:

1. Appears in person at the primary office where emergency registration is conducted;

2. The elector declares under oath that the elector wishes to vote in the election for which registration books are closed; and

3. The elector applied to register to vote prior to the close of registration and can provide evidence of such registration. (Amended 11/2/93; 11/8/94; 11/4/08)

Section 2.5. Election Commission.

An Election Commission is hereby created, consisting of three (3) qualified and registered electors of the Town, who during their terms of office shall not be Town officers or employees or candidates or nominees for elective Town office. The three (3) members shall be appointed by the Town Council for a term of two (2) years, and shall serve without compensation. Commission members shall select a chairperson from its membership. The Election Commission shall have charge of all activities and duties required by this Charter or by ordinance or statute relating to the conduct of elections in the Town. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed. (Amended 11/4/08)

Section 2.6 Nominations.

Candidates for elected municipal offices shall be nominated, without regard to political party affiliation, by petition on forms supplied by the Town Clerk. A petition of nomination must contain the signatures of at least twenty-five (25) registered electors residing within the Town. (Amended 11/5/91)

Section 2.7. Recall.

Any elected officer of the Town may be recalled at any time after six (6) months in office by the electors entitled to vote for a successor of such incumbent, as provided for in Article XXI of the Colorado Constitution.

Section 2.8. Ballots.

All ballots for municipal elections shall be printed only in English.

Section 2.9. Applications for Absentee Ballots/Mail-In Ballots.

Absentee/Mail-In Ballots shall be available to registered/qualified electors for Town elections. A written application for Absentee/Mail-In Ballots is required. Ballots are not automatically mailed to residents except during Mail Ballot Elections. (Amended 11/2/93; 11/4/08)

Section 2.10. Colorado Municipal Election Laws Adopted With Reservation.

Procedures for arranging, conducting and determining the results of municipal elections shall conform with the Colorado Municipal Election Laws, provided that in any case of conflict between the Colorado Municipal Election Laws and provisions of this Charter or of Town Ordinance, the local provision shall be deemed valid.

ARTICLE III

Town Council

Section 3.1. The Town Council.

The Town Council shall consist of six (6) representatives and one (1) Mayor nominated and elected at large from the Town of Telluride. (Amended 4/5/83)

Section 3.2. Terms of Office.

The terms of office for Councilpersons shall be four (4) years. Newly elected Councilpersons shall assume office at the first meeting of the Town Council following their election. Terms of newly elected members shall commence at the Organizational Meeting. (Ord. 1295 §1, 2008)

At any election for Mayor, a Councilperson whose term of office does not expire at such election may run for Mayor without resigning his or her seat. If such Councilperson is elected as Mayor, his or her Council seat shall be filled by the person with the next highest number of votes after all other Council seats have been filled. If the Councilperson who ran for Mayor is defeated in the mayoral election, he or she shall retain his or her seat for the remainder of his or her term of office. (Amended 4/3/84; 11/7/89; 11/4/97; 11/4/08)

Section 3.3. Qualifications.

Each Councilperson, when elected, shall be a registered elector and shall have resided in the Town of Telluride for one (1) year immediately preceding such election.

No Councilperson shall be a salaried employee of the Town during his or her term of office. (Amended 4/3/84)

Section 3.4. Compensation.

The Mayor and Councilpersons shall receive compensation as may be determined by the Town Council by ordinance. Compensation for the Mayor and councilpersons may be increased or decreased by ordinance; provided, however, that salary or other compensation shall not be increased or decreased for the Mayor or any Councilperson during their term of office. (Amended 9/18/79; 4/5/83; 4/5/88; 11/7/95; 11/4/08)

Section 3.5. Vacancies.

A Council seat shall become vacant whenever any member is recalled, dies, becomes incapacitated, resigns or ceases to be a resident of the Town. The vacancy shall be filled by appointment or election at the discretion of the Town Council.

If Town Council chooses to fill the vacancy by appointment the following procedure shall be followed: Within fifteen (15) days after a vacancy occurs, the Town Clerk shall publish a notice inviting applications for the position. Within thirty (30) days after a vacancy occurs, and before conducting any other business, the remaining Councilpersons shall appoint a qualified person to fill the vacancy until the next regular or special election.

If a vacated seat is filled by election, and if the term of the vacated Council seat(s) would normally have extended for another year past the regular election, the candidate(s) elected shall be listed in order of the number of votes received, and the elected candidate(s) with the next highest number of votes after all other seats have been filled for which the terms of office have expired shall fill the vacated seats and shall serve for the duration of the unexpired term(s). (Amended 9/18/79; 11/7/89; 11/2/93; 11/1/05)

Section 3.6. Powers.

The Town Council shall be the legislative and policy-making body of the Town of Telluride and shall exercise, except as otherwise provided in this Charter, all powers that it deems proper, including but not limited to, the adoption of laws, codes, budgets ordinances and resolutions. The Town Council shall appoint members of Town boards and commissions created by ordinance, so long as any of these positions exists.

The Town Council, as chief administrative body of the Town, shall ensure that Town administration is conducted in accordance with Town policy as specified by the Council. The Town Council shall hire, supervise and dismiss the Town Manager, Town Attorney, Town Judge and other Town Council employees as needed.

The Town Council shall approve the issuance of all Town warrants, and shall execute or delegate the authority to execute all contracts provided for by the Town budget. The Town Council may enter into negotiations on behalf of the Town with any party for the acquisition, transfer or trade of property, services or rights not provided for by the Town budget, provided that approval of any such action shall be by vote of the Council. (Amended 11/4/08)

Section 3.7. Oath of Office.

Before entering office, every Councilperson, and other Town officer, shall take an oath, subscribed before and filed with the Town Clerk, that he or she will support this Charter and the ordinances of the Town, and will faithfully perform the duties of office.

ARTICLE IV

Town Council Procedure

Section 4.1. Organizational Meeting.

Within thirty (30) days following each election in which Councilpersons are elected, and before conducting any other business, the Town Council shall hold an organizational meeting, at which it will adopt rules of order and procedure. (Amended 4/3/79; 4/5/83, 11/5/91; 11/4/08)

Section 4.2. Regular Meetings.

The Town Council shall meet regularly at least once a month at a day and hour to be fixed by them. The Town Council shall determine rules of procedure and attendance. (Amended 4/3/79)

Section 4.3. Special Meetings.

Special meetings shall be called by the Town Clerk on the written request of the Town Manager, Mayor or any two (2) Councilpersons, after at least twenty-four (24) hours' written notice to each member, served personally or left at his or her usual place of residence or work, or transmitted by electronic mail, or telephonic facsimile, and after posting written notice of said meeting in a public place for at least twenty-four (24) hours. No business shall be transacted at any special meeting unless it has been stated in the notice of such meeting. If notice is delivered electronically or by telephonic facsimile the Town Clerk shall verify timely receipt. In the event a receipt of electronic service is not received from any councilperson, then at least twelve (12) hours' written notice shall be given to each such councilperson served personally or left at his or her usual place of residence or work. (Amended 4/3/79, 11/4/03)

Section 4.4. Emergency Meetings.

Emergency meetings may be held without twenty-four (24) hours' notice when necessary for the immediate preservation of public property, health, peace or safety. An emergency meeting shall be held only if a diligent, good-faith effort has been made to give actual notice to each Councilperson and five (5) Councilpersons are present and have waived notice thereof, in writing. All actions at emergency meetings shall require the affirmative vote of four (4) Councilpersons. (Amended 4/3/79)

Section 4.5. Quorum; Adjournment of Meeting.

Four (4) Councilpersons shall be a quorum for the transaction of business at all regular and special meetings. In the absence of a quorum, a lesser number may continue any meeting to a later time or date. In the absence of all Council members, the Town Clerk may continue any meeting for not longer than one (1) week. (Amended 4/3/79; 11/4/08)

Section 4.6. Meetings to be Public.

All regular, special and emergency meetings shall be open to the public, who shall have a reasonable opportunity to be heard under such rules and regulations as the Town Council may prescribe, except that any meeting of the Town Council may be recessed by a motion and majority vote of the members present in order to hold an executive session for specific items as set forth in the motion and, which shall be closed to the public, for any of the following reasons:

A. The purchase or sale of any property.

B. Personnel matters.

C. Contracts subject to negotiations.

D. Attorney/client communications.

No Board, Commission or Committee of the Town shall hold an executive session, except as may be provided by an ordinance consistent with the provisions of this Charter.

No final policy decision, resolution, rule, ordinance or regulation, and no action approving a contract or calling for the payment of money shall be adopted at any executive session. (Amended 4/3/79; 4/1/86)

Section 4.7. Council Actions.

The Council shall take official action only at public meeting by ordinance, resolution or motion. All legislative enactments shall be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions. (Amended 4/3/79)

Section 4.8. Voting.

A vote by "yes" or "no" shall be taken on the passage of all ordinances, resolutions and actions and the results of each such vote shall be entered upon the minutes of the Council's proceedings. Except as otherwise provided for in this Charter, every ordinance, resolution or motion shall require the affirmative vote of a majority of those Councilpersons present. Roll call votes need not be taken unless requested by one (1) Councilperson. No Councilperson shall vote on any question in which he or she has a personal or financial interest, other than the common public interest, or on any question concerning his or her own conduct, in which case the Councilperson shall disclose the interest to the Council in open meeting. On all other questions each Councilperson who is present shall vote. Any Councilperson refusing to vote, when not so required by this paragraph, shall be deemed delinquent in his or her duties and an affirmative vote shall be cast and recorded in the Councilperson's name. (Amended 4/3/79)

Section 4.9. Action by Ordinance Required.

In addition to such Council acts that are required by other provisions of this Charter to be by ordinance, every action making an appropriation, creating an indebtedness, authorizing the borrowing of money, levying tax, establishing

any rule or regulation for the violation of which a penalty is imposed, disposing of any real estate, or placing any burden upon or limiting the use of private property, shall be by ordinance; provided, however, that this section shall not apply to the budget adoption procedure in Sections 10.8 and 10.9. Ordinances making appropriations shall be confined to the subject of appropriation. (Amended 4/3/79)

Section 4.10. Extraordinary Majority.

The passage of any ordinance authorizing or appropriating funds, creating an indebtedness, authorizing the borrowing of money or levying of tax shall require the affirmative vote of a quorum of the Council plus one (1), in addition to any other required voter approval under this Charter or applicable requirements or limitations under the Colorado Constitution. (Amended 4/3/79; 4/1/86; 11/4/08)

Section 4.11. Form of Ordinance.

Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TELLURIDE. Except as otherwise provided in this Charter, each ordinance shall take effect immediately on publication pursuant to Section 4.12 E. (Amended 4/3/79; 4/1/86)

Section 4.12. Ordinance Procedure.

Except for emergency ordinances, ordinances making general codification of existing ordinances and ordinances adopting standard codes, the following procedure for enactment of ordinances shall be followed:

A. At any regular or special meeting, the proposed ordinance shall be introduced in writing by any Councilperson and read in full, or if copies thereof are available to the Council and the public, it may be read by title only.

B. After the first reading of the ordinance, the same shall be referred to public hearing with or without amendment or rejected by a vote of the Council.

C. If the ordinance is referred to public hearing, the Town Council shall schedule such public hearing to be held not earlier than fourteen (14) days after referral. Notice of public hearing shall be published and shall contain the date, time and location of the public hearing and a description of the subject matter of the proposed ordinance.

D. At the public hearing, the proposed ordinance shall be considered and read in full, or if copies thereof are available to the Council and the public, it may be read by title only. The proposed ordinance may be amended before final approval by vote of the Council. A third reading of the ordinance shall occur when substantive amendments are made at the second reading, subject to the requirements of Section 4-12 C of this Charter.

E. After final adoption of the ordinance, a public notice shall be published containing a brief description of the ordinance, its effective date and penalty clause contained in said ordinance, and notice that copies are available for inspection at Town Hall. (Amended 4/3/79; 4/1/86; 11/4/08)

Section 4.13. Emergency Ordinances.

Emergency ordinances for the preservation of public property, health, peace or safety shall be approved by the affirmative vote of five (5) Councilpersons. The facts showing such urgency and need shall be specifically stated in

the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by any Town-owned utility, shall ever be passed as an emergency measure. A prior public hearing as provided in Section 4.12 shall not be required. An emergency ordinance shall take effect immediately upon final passage and shall be published in full as soon thereafter as possible and no later than ten (10) days after passage. (Amended 4/3/79)

Section 4.14. Codification.

The Council shall cause the ordinances of the Town to be codified within three (3) years of the adoption of this Charter and thereafter maintained in current form. Revisions to the codes may be accomplished by reference as provided in Section 4.15. (Amended 4/3/79)

Section 4.15. Codes.

Standard Codes promulgated by the Federal Government, the State of Colorado, or by any agency of either of them, or by any political subdivision within the State of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference by ordinance; provided, however, that public notice of the adoption of any such code shall advise that copies are available for inspection at the Town Hall and provided, further, that any penalty clause in any code may be adopted only if set forth in full in the adopting ordinance. A copy of the code as adopted shall be certified and kept with the adopting ordinance as prescribed in Section 4.16. (Amended 4/3/79)

Section 4.16. Disposition of Ordinances.

A true copy of every ordinance shall be numbered and recorded in the official records of the Town, and authenticated by the signature of the Mayor or Mayor Pro Tem, and the Town Clerk. (Amended 4/3/79)

Section 4.17. Public Records.

All records of the Town shall be open for inspection by any person at reasonable times, except where otherwise provided by State or Federal law. (Amended 4/3/79; 4/1/86)

Section 4.18. Conflicts of Interest.

No Town Councilperson or appointed member of a Board, Commission or Committee of the governmental structure, during his or her term of office shall be a compensated employee of the Town, nor shall he or she have any material or significant financial interest, direct or indirect, or any apparent conflict of interest with the Town. In the event that any such person, or any member of his/her family, has or could potentially be construed as having such interest, said person shall declare such interest. If any such person fails to declare such interest, the remaining members of the body shall determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the remaining members of the body shall take any action they deem to be in the best interest of the Town. (Added 4/1/86)

ARTICLE V

Mayor

Section 5.1. Mayor Pro Tem.

At each organizational meeting the Town Council shall elect from among its membership a Mayor Pro Tem who shall serve until the next organizational meeting of the Town Council, or until removed from that position in accordance with this Charter. The Mayor Pro Tem shall retain all powers, rights and obligations as a Councilperson. (Amended 4/5/83)

Section 5.2. Duties and Powers of Mayor.

The Mayor shall be recognized as the ceremonial head of the Town government. He or she shall act as chairperson of the Town Council during all meetings and shall hold the right and obligation to vote on all matters. The Mayor shall affix his or her signature to all ordinances, resolutions and codes duly passed immediately upon passage. At least three (3) days before any regular meeting of the Town Council, the Mayor shall prepare and cause to be posted in a public place an agenda of items to be considered at those meetings.

At the first regular meetings of the Council in January and in July of every year, the Mayor shall deliver a report on the status of Town affairs.

Section 5.3. Duties and Powers of Mayor Pro Tem And Interim Mayor Pro Tem.

In the absence or disability of the Mayor, as defined by the Council, the Mayor Pro Tem shall perform all duties and have all powers of the Mayor. In the absence or disability of the Mayor and Mayor Pro Tem, Town Council may elect, as needed, from among its membership an Interim Mayor Pro Tem who shall perform all duties and have all powers of the Mayor until the return of either the Mayor or the Mayor Pro Tem. (Amended 4/5/83, 11/4/03)

Section 5.4. Vacancy of Mayor Pro Tem.

The Mayor Pro Tem shall cease to hold that office if he or she dies, becomes incapacitated, resigns, ceases to be a resident of the Town or is recalled from the office by a vote of five (5) or more Councilpersons. When a Mayor Pro Tem vacancy occurs the Council shall elect a replacement from among its membership at the next regular meeting. (Amended 4/5/83; 11/4/08)

Section 5.5. Vacancy of Mayor.

The Mayoral seat shall become vacant whenever the Mayor is recalled, dies, becomes incapacitated, resigns or ceases to be a resident of the Town. The Mayoral vacancy shall be filled by the Mayor Pro Tem until a new Mayor is elected. (Amended 11/2/93)

ARTICLE VI

Initiative And Referendum

Section 6.1. General Authority.

A. Initiative: The registered electors of the Town shall have the power to propose any ordinance to the Council, in accordance with the provisions of this Article of the Charter. In the event the Council fails to adopt said proposed ordinance without material change in substantive provisions, the said proposed ordinance shall be submitted to the qualified electors at a Town election for their acceptance or rejection.

B. Referendum: The registered electors of the Town shall have the power by referendum to require reconsideration by the Town Council of any ordinance and, if the Council fails to repeal an ordinance so referred, to approve or reject it at a Town election, in accordance with the provisions of this Article of this Charter; provided that such power shall not extend to the budget, capital improvement program, appropriation ordinances, levy of taxes, calling of a special election, authorizing the issuance of securities, or ordinance to meet any contractual obligation of the Town. (Amended 11/5/91)

Section 6.2. Petitioners' Committee; Affidavit.

Any three (3) registered electors of the Town may commence initiative or referendum proceedings by filing with the Town Clerk an affidavit stating they will constitute the petitioners'

committee and be responsible for circulating the petition and filing it in proper form, stating their names and street addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the ordinance so initiated, or citing the ordinance sought to be referred.

Promptly after the affidavit of the petitioners' committee is filed, the Town Clerk shall issue the appropriate petition blanks to the petitioners' committee. (Amended 11/5/91)

Section 6.3. Petitions.

A. Number of signatures: Initiative or referendum petitions must be signed by registered electors of the Town in number equal to at least fifteen (15) percent of the total number of electors voting at the last regular municipal election. However, petitions signed by registered electors equal to at least five (5) percent, but less than fifteen (15) percent, of the total number of electors voting at the last regular municipal election, shall be submitted to the qualified voters at the next regular municipal election, provided that the Council does not adopt the initiated proposal before that election.

B. Form and Content: All pages of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink and shall be followed by the street address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance initiated or sought to be referred.

C. Affidavit of Circulator: Each page of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating that he or she personally circulated the petition, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance initiated or sought to be referred.

D. Time for Filing Referendum Petitions: If the ordinance to be referred is also to be suspended, referendum petitions must be filed within thirty (30) days of the publication of such ordinance. (Amended 11/5/91; 11/5/13)

Section 6.4. Procedure After Filing.

Certificate of Clerk; Amendment: Within ten (10) days after a petition is filed, the Town Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioners' committee by certified mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Town Clerk within two (2) days after receiving the copy of the Town Clerk's certificate. Such supplementary petition shall comply with the requirements of subsection B and C of Section 6.3, and within five (5) days after it is filed, the Town Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend under this Section within the time required, the Town Clerk shall promptly present his or her certificate to the Town Council, and such certificate shall then be a final determination as to the sufficiency of the petition. (Amended 11/5/13)

Section 6.5. Referendum Petitions; Suspension of Effect of an Ordinance.

When a referendum petition is filed with the Town Clerk, if the ordinance sought to be reconsidered shall be suspended, such suspension shall terminate when:

A. There is a final determination of insufficiency of the petition, or

B. The petitioners' committee withdraws the petition, or

C. The Town Council repeals the ordinance, or

D. The results of a favorable vote of qualified electors of the Town on the ordinance is certified.

Emergency ordinances shall continue in effect unless a majority of the entire Town Council votes to suspend the ordinance pending an election.

Section 6.6. Action on Petitions.

A. Action by Town Council: When an initiative and referendum petition has been finally determined sufficient, the Town Council shall either:

1. Adopt the ordinance as submitted by an initiatory petition;

2. Repeal the ordinance, or part thereof, referred by a referendum petition; or

3. Submit the initiated or referred ordinance to the qualified electors of the Town; provided, however, that the Town Council shall have power to change the detailed language of any initiated ordinance and to affix the title thereto, so long as the substantive provisions of such ordinance will not be materially altered.

B. Submission to Voters: The vote of the qualified electors on an initiated or referred ordinance shall be held not less than sixty (60) days and not later than one hundred twenty (120) days from the date of the final Council action thereon. If no regular municipal election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may at its discretion provide for a special election at an earlier date within the prescribed period. Copies of the initiated or referred ordinance shall be made available to the public within a reasonable time before the election at the office of the Town Clerk, on the town website, at the polling place and at Voter Service and Polling Centers. (Amended 11/5/13)

C. Withdrawal of Petitions: An initiative or referendum petition may be withdrawn at any time prior to the sixtieth (60th) day preceding the day scheduled for a vote of qualified electors by filing with the Town Clerk a request for withdrawal signed by a majority of the petitioners' committee. (Amended 11/2/93)

Section 6.7. Submission by Council.

The Council on its own motion shall have the power to submit at a regular or special election any proposed ordinance or any question to a vote of the qualified electors.

Section 6.8 Results of Election.

A. Initiative: If a majority of the qualified electors voting on an initiated ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one (1) receiving the greatest affirmative votes shall prevail to the extent of such conflict.

B. Referendum: If a majority of the qualified electors voting on a referred ordinance vote for repeal, it shall be considered repealed upon certification of the election results.

C. Amendment or Repeal: An initiated ordinance adopted by the electorate may not be amended or repealed by the Council for a period of six (6) months after the date of the election at which it was adopted. An ordinance repealed by the electorate or any other ordinance with substantially the same effect as the ordinance repealed may not be reenacted by the Council for a period of six (6) months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted or amended, or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Article, or if submitted to the electorate by the Town Council on its own motion.

ARTICLE VII

Town Administration

Section 7.1. Town Manager.

The Town Manager shall be the chief administrative officer of the Town. The Town Council shall appoint a Town Manager within a reasonable time whenever a vacancy exists. Such appointment shall be at the pleasure of the Town Council without definite term, and shall be at compensation established by the Town Council. The Manager shall be appointed without regard to any consideration other than his or her fitness, competency, training and experience as a manager. (Amended 11/4/08)

Section 7.2. Acting Manager.

Within thirty (30) days of a Town Council determination of absence, resignation or disability of the Town Manager, the Town Council shall appoint an acting Town Manager, to hold all powers and responsibilities of the Town Manager position. (Amended 11/4/08)

Section 7.3. Powers and Duties of Town Manager.

The Manager shall be responsible to the Town Council for the proper administration of all Town affairs placed in his or her charge, and to that end he or she shall have the power and duty and be required to:

A. Enforce the laws and ordinances of the Town;

B. Hire, suspend, transfer and remove Town employees on the basis of ability, training and experience of such employees in the work which they are to perform;

C. Prepare a proposed annual budget and submit it to the Council for approval, and be responsible for the administration of the budget after its adoption by the Council;

D. Within a reasonable time after the end of each fiscal year, prepare and submit to the Town Council a complete annual report of finances and administrative activities of the Town for such fiscal year, and upon request of the Town Council, make written or verbal reports at any time concerning the affairs of the Town;

E. Keep the Town Council advised of the financial condition and future needs of the Town, and make such recommendations to them as he or she may deem necessary or expedient;

F. Exercise supervision and control over all executive and administrative departments, and recommend to the Town Council any proposal he or she thinks advisable to establish, consolidate or abolish departments;

G. Be responsible for the enforcement of all terms and conditions imposed in favor of the Town in any contract or public utility

franchise, and upon knowledge of any violation thereof, report the same to the Town Council for such actions and proceedings as may be necessary to enforce the same;

H. Attend Town Council meetings and participate in discussions with the Town Council in an advisory capacity;

I. Provide for engineering, architectural, maintenance and construction services required by the Town;

J. Serve in an ex officio capacity on all present and future Boards, Committees and Commissions of the Town; and

K. Perform such other duties as may be prescribed by this Charter or by ordinance, or required by the Council which are not inconsistent with this Charter.

Section 7.4. Removal of Town Manager.

The Town Council at a regular or special meeting may remove the Town Manager from office. Upon such removal the Town Council may in its discretion provide termination pay. The Manager may request a hearing before the Council concerning his or her dismissal. At the conclusion of such hearing, the Council shall make final determination to dismiss or reinstate the Manager.

Section 7.5 Relationships.

Direction from the Council to the Town Manager and/or Town Attorney shall be through the Mayor. All formal interaction between the Town Council and administrative and service personnel shall be through the Town Manager.

No member of the Town Council nor any member of any Town Board or Commission shall dictate the appointment of any person to office or employment by the Town Manager, or in any other way interfere with any Town officer or employee or prevent the Town Manager from exercising his or her judgment in the appointment or employment of officers and employees, except as otherwise provided in this Charter.

Section 7.6. Town Treasurer.

There shall be a Town Treasurer who shall be appointed by and serve at the pleasure of the Town Manager. The Town Treasurer may appoint a deputy or deputies to serve under his or her supervision provided such appointment shall be contingent upon the approval of the Town Manager.

Section 7.7. Town Treasurer Duties.

The Town Treasurer shall keep and supervise all accounts; receive and have custody of all moneys of the Town, collect special Town taxes, sewer, water, sanitation and other fees and charges; establish a system of accounting and auditing for the Town which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the Town; provide the Town auditor with all necessary information to perform the annual audit; be empowered to perform and make public internal audits on any Town department, receiving full cooperation from audited department heads; and perform such other duties pertaining to the department of finance as required by this Charter, the Council, ordinance or the Town Manager. (Amended 4/1/86)

Section 7.8. Town Clerk.

The Town Manager shall appoint a Town Clerk, who shall be custodian of the Town seal and who shall keep a journal of Town Council proceedings and record in full all ordinances, motions and resolutions. The Town Clerk shall have the power to administer oaths and take acknowledgments under seal of the Town and shall perform such other duties as required by this Charter, the Council, ordinance or the Town Manager.

Section 7.9. Creation, Consolidation and Merging of Departments.

The administrative functions of the Town shall be performed by the departments existing at the time this Charter is adopted and such other departments as may be thereafter established by ordinance. The Town Council may by ordinance create, consolidate, merge or abolish any Town department or offices except Town Attorney, Town Judge and Town Manager.

ARTICLE VIII

Legal And Judiciary

Section 8.1. Town Attorney.

The Council shall appoint an attorney at law admitted to practice in Colorado as the Town Attorney. The Town Attorney shall be the legal representative of the Town, and shall advise the Council, the Manager and Town officials in matters relating to their official powers and duties, and perform such other duties as the Council may prescribe. The Council shall establish compensation for the Town Attorney, and for any assistants or special counsel that the Council may deem necessary to serve under the direction of the Town Attorney.

Section 8.2. Judiciary.

A. Municipal Judge: There shall be a Municipal Court vested with jurisdiction of all causes arising under the Charter or ordinances of the Town and as may be conferred by law. The Municipal Court shall be presided over and its functions exercised by a Judge appointed or reappointed by the Council for a specified term of not less than two (2) years. Any vacancy in the office of Municipal Judge shall be filled by appointment by the Town Council for the remainder of the unexpired term. In the event that more than one (1) Municipal Judge is appointed, the Town Council shall designate a Presiding Municipal Judge, who shall serve in this capacity during his or her appointed term.

B. Deputy Judges: The Council may appoint one (1) or more Deputy Municipal Judges to serve for two (2) year terms. The Deputy Municipal Judges shall all have the powers of the Municipal Judge when called upon to act by the Municipal Judge or the Council.

C. Qualifications: The Municipal Judge and all Deputy Municipal Judges shall be attorneys admitted to practice in Colorado.

D. Compensation: The Municipal Judge shall receive a fixed salary or compensation set by the Council, the amount of which shall not be dependent upon the outcome or number of matters to be decided by the Municipal Judge. The Deputy Municipal Judges may receive such compensation for services rendered as the Council may determine.

E. Procedures: The Municipal Court shall at all times practicable be a Court of Record. Jury trials in the Municipal Court shall be by a jury of no less than three (3) persons. The Court may punish contempt of Court by fine not exceeding fifty dollars ($50.00) or by imprisonment not exceeding five (5) days, or both.

F. Removal: Any Municipal Judge may be removed during the appointed term of office only for cause. A Judge may be removed for cause by the Council only if any of the following conditions are found to exist: (1) The Judge is found guilty of a felony or any other crime involving moral turpitude; (2) The Judge has a disability which interferes with the performance of appointed duties, and which is, or is likely to become, of a permanent character; (3) The Judge has willfully or persistently failed to perform appointed duties; or (4) The Judge is habitually intemperate.

The Judge may request a hearing before the Town Council concerning his or her dismissal. At the conclusion of such hearing, the Council shall make final determination to dismiss or reinstate the Judge. (Amended 11/4/08)

ARTICLE IX

Boards And Commissions

Section 9.1. Existing Boards and Commissions.

All existing Boards and Commissions shall continue as established by ordinance, except as otherwise provided by ordinance or this Charter.

Section 9.2. Composition.

The following shall apply to the composition of any permanent Board or Commission:

A. Terms and conditions of appointment shall be determined by ordinance, except that no term shall be longer than four (4) years.

B. There shall be no limitation on the number of terms a member may serve.

C. Town employees may only serve as a nonvoting member.

D. Only qualified electors of the Town of Telluride shall be voting members of the Planning and Zoning Commission, the Board of Adjustments and Appeals, and the Historic and Architectural Review Commission. Other permanent Boards and Commissions may be composed of not more than two (2) voting members who are not qualified electors of the Town of Telluride but who do reside in San Miguel County, Colorado. (Amended 4/1/86)

Section 9.3. Establishment.

All permanent Boards and Commissions shall be created or dissolved by ordinance, which shall set forth the powers and duties delegated to such Boards and Commissions. Initial appointment by the Council to any Board or Commission shall specify the term of each individual member in order to achieve overlapping tenure. The chairperson and chairperson pro tem shall be appointed by the members of the respective Boards and Commissions. Each Board and Commission shall operate in accordance with its own rules of procedure and all Board or Commission meetings shall be open to the public except when meeting in an executive session specifically allowed by ordinance. (Amended 11/4/08)

Section 9.4. Removal of Members.

The Town Council shall remove a member of a permanent Board or Commission only for good cause, and only after notice and hearing.

Section 9.5. Vacancies.

Whenever a vacancy occurs on any Board or Commission, the Town Clerk shall cause public notice of such vacancy to be made and encourage qualified volunteers to seek appointment to such Board or Commission. No sooner than seven (7) days after said notice, the Council shall make an appointment to fill the vacancy.

ARTICLE X

Finance

Section 10.1. Fiscal Year.

The fiscal year of the Town shall begin on the first day of January and end on the last day of December.

Section 10.2. Preparation and Submission of Budget and Budget Message.

By August 1st of each year, the Manager shall give public notice of budget preparation for the next fiscal year. The Manager shall ask that all Town departments, Boards, Commissions or citizens submit to him or her, within thirty (30) days from the notice, any requests for funds under the budget being prepared.

The Manager shall then prepare a proposed budget and an accompanying message for the ensuing fiscal year and submit it to the Council no later than forty-five (45) days prior to any date required by state law for the certification to the County of the tax levy.

Section 10.3. Budget Message.

The Manager's budget message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with reasons for such changes, summarize the Town's debt position, and include such other material as the Manager deems desirable or which the Town Council may require.

Section 10.4. Budget Content.

The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager shall utilize standard municipal expenditure classification by fund, organization unit, program, purpose or activity. It shall begin with a clear general summary of its contents, and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. In separate sections, it shall indicate:

A. Anticipated revenues classified as cash surplus, miscellaneous revenues, and amount to be received from property tax; cash surplus being defined for purposes of this Article as the amount by which cash is expected to exceed current liabilities and encumbrances at the beginning of the ensuing fiscal year;

B. Proposed expenditures for current operations during the ensuing fiscal year, and the method of financing such expenditures;

C. A reasonable provision for contingencies which shall not be available for expenditures except as provided in Section 10.10;

D. Proposed capital expenditures during the ensuing fiscal year and the method of financing each capital expenditure; and

E. Anticipated net surplus or deficit for the ensuing fiscal year for each utility owned or operated by the Town and proposed methods of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total proposed expenditures and provisions for contingencies shall not exceed the total of estimated revenue. (Amended 11/4/08)

Section 10.5. Capital Program.

The Manager, with such assistance as the Council may direct, shall prepare and submit to the Council a capital program at least two (2) months prior to the final date for submission of the long-term budget. The capital program shall include:

A. A clear general summary of its contents;

B. A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supportive information as to the necessity for the improvement;

C. Cost estimates, method of financing and recommended schedules for each such improvement; and

D. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised or extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 10.6. Public Hearing.

A public hearing on the proposed budget and proposed capital program shall be held by the Council on any date at least fifteen (15) days prior to the final day established by law for the certification of the ensuing fiscal year's tax levy to the County. Notice of the time and place of such hearing shall be published one (1) time at least seven (7) days prior to the hearing.

Section 10.7. Budget Amendment.

After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit.

Section 10.8. Budget Adoption.

The Council shall adopt the budget by resolution on or before the final day established by law for the certification of the ensuing year's tax levy to the County. If it fails to adopt the budget by this date, the amounts appropriated for the current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts the budget for the ensuing fiscal year.

Section 10.9. Property Tax Levy.

Adoption of the budget by the Council shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. The Council shall cause the same to be certified to the County Assessor as required by law.

Section 10.10. Contingencies.

The budget shall include an item for contingencies. Except in those cases where there is no logical account to which an expenditure can be charged, expenditures shall not be charged directly to contingencies; but instead, the necessary part of the appropriation for contingencies shall be transferred to the logical account, and the expenditure charged to such account. No such transfer, appropriation or expenditure shall be made except by ordinance or resolution, and then only for expenditures which could not readily be foreseen at the time the budget was adopted.

Section 10.11. Public Records.

Copies of the budget and the capital program as proposed or adopted shall be public records and shall be made available for inspection by the public.

Section 10.12. Amendments After Adoption.

A. Supplemental Appropriations: If during the fiscal year the Manager certifies that there are revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

B. Emergency Appropriations: To meet an emergency affecting public property, health, peace or safety, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with provisions of Section 4.13. To the extent that there are no available unappropriated revenues to meet such appropriation, the Council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals thereof shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

C. Reduction of Appropriation: If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he or she shall report to the Council without delay, indicating the estimated amount of deficit, any remedial action already taken, and his or her recommendation as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one (1) or more appropriations.

D. Transfer of Appropriation: Any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, agency or fund. The Council may by ordinance transfer part or all of any unencumbered appropriation balance from one (1) department, office, agency, fund or object to another. Such ordinance shall specify terms of repayment to the original budget section, or specify that repayment shall be waived.

E. Limitations: Effective Date: No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriation and reduction or transfer of appropriations authorized by this Section may be made effective immediately upon adoption.

Section 10.13. Independent Audit.

An independent audit shall be made of all Town accounts at least annually and more frequently if deemed necessary by the Town Council. Such audit shall be made by certified public accountants selected by the Town Council. The Town Council shall select certified public accountants to perform such audit which shall be completed within six (6) months time of the close of the fiscal year. Copies of such audit shall be made available for public inspection at Town Hall. (Amended 11/4/08)

ARTICLE XI

Municipal Borrowing

Section 11.1. Forms of Borrowing.

The Town may borrow money and to evidence such borrowing may issue the following securities in accordance with the provisions of this section:

A. General obligation bonds and other like securities;

B. Revenue bonds and other like securities;

C. Special or local improvement bonds and other like securities;

D. Short-term notes.

Section 11.2. General Obligation Bonds.

No bonds or other evidence of indebtedness payable in whole or in part from the proceeds of ad valorem taxes, or to which the full faith and

credit of the Town are pledged, shall be issued until the question of their issuance shall be submitted to a vote of the electors of the Town of Telluride and approved by a majority of those voting on the question in an election that is compliant with the requirements and limitations under the Colorado Constitution. The aggregate amount of such securities shall not exceed twenty percent (20%) of the assessed valuation of the taxable property within the Town as shown by the latest assessment. No Securities issued for creating, improving or extending any municipal utility system, including water and sewer systems and flood control systems, shall be issued until the question of their issuance shall be submitted to a vote of the electors of the Town of Telluride and approved by a majority of those voting on the question in an election that is compliant with the requirements and limitations under the Colorado Constitution. All bonds, debt or securities issued for any municipal utility system, including water and sewer systems and flood control systems shall not be included in the determination of such 20% debt limitation. (Amended 11/4/08)

Section 11.3. Revenue Bonds.

The Council, pursuant to ordinance and thirty (30) days' public notice may borrow money, issue bonds or otherwise extend its credit for purchasing, equipping and constructing a public utility or income-producing project, provided that the bonds or other obligations shall be made payable from the net revenues derived from the operation of such project, or from the proceeds of any revenue tax other than general ad valorem tax, levied in accordance with this Charter, so long as the full faith and credit of the Town are not pledged for the payment of such securities. Such securities shall not be deemed to be subject to any debt limitation nor to affect the Town's debt-incurring power. No Town Revenue Bonds shall be issued until the question of their issuance shall be submitted to a vote of the electors of the Town of Telluride and approved by a majority of those voting on the question in an election that is compliant with the requirements and limitations under the Colorado Constitution. (Amended 11/4/08)

Section 11.4. Refunding Bonds.

The Town Council may authorize, by ordinance, without an election, issuance of refunding securities for the purpose of refunding and providing for the payment of outstanding securities or other obligations of the Town as they mature, or in advance of maturity by means of an escrow or otherwise.

Section 11.5. Special or Local Improvement Bonds.

The Town shall have the power to create local improvement districts and to assess the cost relating to the construction or installation of special or local improvements of every character against benefited property within designated districts in the Town by:

A. Order of Council, subject, however, to protest by the owner or owners of a majority of all property benefited and constituting the basis of assessment as the Council may determine;

B. On a petition by more than fifty (50) percent of the landowners in the area of the proposed district.

In either event, a public hearing shall be held at which all interested parties may appear and be heard. Right to protest and notice of public hearing shall be given as provided by Town Council ordinance. Such improvements shall confer special benefits to the real or personal property within said district and general benefits to the Town at large. The Town Council shall have the power by ordinance without an election

to proscribe the method of making such improvements, of assessing the cost thereof, and of issuing bonds for cost of constructing or installing such improvements, including the costs incidental thereto.

Where all outstanding bonds of a special or local improvement district have been paid and any moneys remain to the credit of the district, they shall be transferred to a special surplus and deficiency fund and whenever there is a deficiency in any special or local improvement district fund to meet the payments of outstanding bonds and interest due thereon, the deficiency shall be paid out of said surplus and deficiency fund. Whenever a special or local improvement district has paid and cancelled three-fourths (¾) of its bonds issued, and for any reason the remaining assessments are not paid in time to take up the remaining bonds of the district and the interest due thereon and there is not sufficient moneys in the special surplus and deficiency fund, then the Town shall pay said bonds when due and the interest due thereon, and reimburse itself by collecting the unpaid assessments due said district.

In consideration of general benefits conferred upon the Town at large from the construction and installation of improvements in improvement districts, the Council may levy annual taxes without an election on all taxable property within the Town at a rate to be determined by the Council for the purpose of advancing moneys to maintain current payments of interest and equal annual payments to the principal amount of bonds issued for any improvement district hereafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein, provided that in lieu of such tax levies, the Council may annually transfer to such special fund any available moneys of the Town.

Section 11.6. Short-term Notes.

The Town is hereby authorized to borrow money, by the affirmative vote of the Town Council, without a public election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Such short-term notes shall mature within twelve (12) months from the date of issue.

Section 11.7. No Additional Limitations.

Except as explicitly provided in this Article, or as specifically imposed on Colorado home-rule municipalities by independent limitations or restrictions under the Colorado Constitution, there shall be no limitations on the authority of the Town Council to incur indebtedness or to issue securities. (Amended 11/4/08)

ARTICLE XII

Taxation

Section 12.1. Authority to Levy Taxes.

The Council may levy general ad valorem property taxes for municipal purposes. However, such levy shall be computed so as to prohibit the collection of a greater amount of property tax revenue than was collected in the preceding year plus seven (7) percent except to provide for the payment of bonds and interest thereon. In computing the seven (7) percent limit, the increased valuation for assessment attributable to annexation or inclusion of additional land and the improvements thereon within the taxing district for the preceding year or attributable to new construction within the taxing district for the preceding year shall be excluded. The Town Council may increase this seven (7) percent limit if approved by a majority of the electors voting at a regular or special election.

The Town Council may also levy and collect, without limitation, special assessments for local improvements as provided in this Charter. However, no tax shall hereinafter be levied until such tax has been approved by a majority of the qualified electors voting in an election that is compliant with the requirements and limitations under the Colorado Constitution. (Amended 4/3/79; 11/4/08)

ARTICLE XIII

Public Utilities and Franchises

Section 13.1. General Powers.

The Town shall have and exercise with regard to all utilities and franchises all municipal powers including, without limitation, all powers not expressly forbidden by the Constitution or statute. The right of the Town to construct, purchase or condemn any public utility, work or way is expressly reserved. Except as expressly forbidden by Constitution or this Charter, all powers concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Council.

Section 13.2. Water Rights.

The Town shall have the power to buy, exchange, lease, own and control water rights.

Section 13.3. Utility Rates and Service Areas.

The Town Council shall by ordinance establish rates for services provided by municipality-owned utilities. All newly annexed territory shall be served by municipal utilities within a reasonable period of time after annexation. The Town Council may extend municipal utilities beyond boundaries at terms and conditions it deems appropriate.

Section 13.4. Granting Franchises.

No franchise shall be granted that exceeds ten (10) years.

Section 13.5. Franchise Review.

Each franchise granted under the provisions of this Charter shall include a section specifying a periodic review of said franchise.

Section 13.6. Franchise Records.

The Town Council shall cause all franchises to be kept in the office of the Town Clerk. (Amended 11/4/08)

Section 13.7. Existing Franchises.

All franchise ordinances of the Town in effect at the time that this Charter 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.

ARTICLE XIV

Miscellaneous Legal Provisions

Section 14.1. Eminent Domain.

The Town shall have the right of eminent domain to acquire property both within and without the boundaries of the Town for any purpose deemed by the Town Council to be in the Town's best interest.

Section 14.2. Reservation of Power.

The power to supersede any law of this state now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the Town, acting by ordinance, subject only to prohibitions of the State Constitution. It is the

intention of this Charter to grant and confirm to the people of the Town of Telluride the full right of self-government on local and municipal matters and, to that end, to grant and confirm unto the Town all governmental powers not prohibited by the Constitution. The enumeration in this Charter of certain powers shall not be construed to deny the Town any other right or power.

Section 14.3. De-Annexation.

The Town Council with notice to property owners and after public hearing may de-annex or redraw its boundaries to exclude territory previously included in the corporate limits of the Town, so long as no area may be de-annexed or withdrawn which has been provided with municipal utilities.

Section 14.4. Liability of Town.

No action for recovery of compensation for personal injury, death or property damage against the Town on account of its negligence shall be maintained unless written notice of the alleged time, place and cause of injury, death or property damage is given to the Town Clerk by the person injured, or an agent or attorney of that person, within thirty (30) days of the occurrence causing the injury, death or property damage. The notice given under the provisions of this Section shall not be deemed invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of injury, if it is shown that there was not intent to mislead and that the Town in fact was not misled thereby. This provision shall not be construed as a waiver of any governmental immunity the Town may have, nor as prohibiting the Town from authorizing and appropriating compensation for any injury, death or property damage, as the Council sees fit.

Section 14.5. Severability of Charter Provisions.

If any article, section, sentence, clause, phrase, word or other provision of this Charter or the application thereof to any person or circumstance shall be found to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining articles, sections, sentences, clauses, phrases, words or other provisions of this Charter, or the validity of this Charter as an entirety.

Section 14.6. Charter Amendments.

This Charter may be amended at any time in the manner provided by the State Constitution. Nothing herein contained shall be construed as preventing the submission to the people of more than one (1) Charter amendment at any one (1) election. If provisions of two (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall become effective.

Section 14.7. Interpretations.

Except as otherwise specifically provided or indicated by the context hereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. The singular number shall include the plural, the plural shall include the singular, and the word "person" shall extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

Section 14.8. Penalties.

Any willful violation of this Charter shall be a misdemeanor punishable in the Municipal Court by penalty not to exceed the maximum penalty allowed in that Court by statute or ordinance. Each such violation shall constitute a separate offense.

ARTICLE XV

Transition

Section 15.1. Effective Date of Charter.

This Charter shall become effective immediately upon certification of voter approval.

Section 15.2. First Municipal Election Following Charter Adoption.

Upon adoption of this Charter, the current Town Board of Trustees shall declare at their next regular meeting a municipal election to be held on April 4, 1978. At that election the voters shall elect representatives to fill all seven (7) seats on the Town Council. The four (4) candidates receiving the highest number of votes shall be elected for two (2) year terms. The three (3) candidates receiving the next highest number of votes shall be elected for one (1) year terms and their successors chosen at a regular election in April of 1979.

Any elector duly registered to vote at the election for adoption of this Charter shall be construed eligible to vote in the election for Councilpersons on April 4, 1978.

Section 15.3. Prior Town Legislation.

All bylaws, ordinances, resolutions, rules and regulations of the Town of Telluride which are not inconsistent with this Charter and which are in force and effect at the effective date of this Charter shall continue in full force and effect until repealed or amended.

Those provisions of any effective bylaw, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.

Section 15.4. Present Elected Officials to Continue in Office.

The Town Council and Mayor in office at the time of the adoption of the amendment to Article II, Section 2.1, shall continue at their salaries as set forth in Article III, Section 3.4, to serve and carry out the functions, powers and duties of their offices, unless removed for cause, until the inauguration of the first members of the Town Council elected pursuant to the amendment to Article II, Section 2.1. (1/3/89)

Section 15.5. Saving Clause.

This Charter shall not affect any suit pending in any Court or any document heretofore executed in connection therewith. Nothing in the Charter shall invalidate any existing contracts between the Town of Telluride and any person or public agency.

Section 15.6. Transition for Extended Terms.

Commencing at the regular municipal election in 1997, the term of office for each Council seat expiring at such election or at any subsequent regular election shall be permanently extended to four (4) years, except that the term of office of the candidates elected at the 1998 regular election, only, shall be three years. (11/7/89; 11/4/97)

ARTICLE XVI

Town Meeting

Section 16.1. Town Meeting.

No more than two (2) times within any calendar year, the Town Council may call a Town Meeting of the registered electors of the Town of Telluride.

Section 16.2. Call to Town Meeting.

A. Call by Council: The Council may authorize and issue a Call to Town Meeting by vote of four (4) or more Councilpersons in favor of a Call, provided that no Town Meeting called by vote of Council has been held during the current calendar year.

B. Call by Petition: Upon receipt of a petition to issue a Call, and certification by the Town Clerk that such petition contains signatures of registered electors in number equal to at least fifteen percent (15%) of the total number of electors voting in the last regular municipal election, the Council must issue a Call at the earliest possible time, provided that no Town Meeting called by petition has been held during the current calendar year.

C. The Call shall set the Town Meeting not less than thirty (30) days nor more than sixty (60) days after the date of issue of the Call. It shall include the date, time and place of the meeting and an agenda of no more than three (3) items for discussion or action. The Council resolution or popular petition calling for a Town Meeting shall specify the items for discussion or action, and the agenda may not be changed after the Call is issued. The Call shall be posted in a public place and published in a newspaper of record at least thirty (30) days prior to the date set for the Town Meeting.

Section 16.3. Powers of the Town Meeting.

The Town Meeting, from the time of its call to order to the time of its adjournment, shall constitute a legislative body with full powers to pass, repeal or amend laws, codes, ordinances or resolutions. The Town Meeting may not elect or recall any elected official and may not take action to hire, dismiss or suspend any appointed official.

Section 16.4. Town Meeting Moderator.

A Town Meeting Moderator shall be elected for a two (2) year term at the regular municipal election to be held in April of 1978 and at each regular municipal election held in an odd-numbered year thereafter. Any qualified elector may become a candidate for Moderator by presenting the Town Clerk with a petition bearing the signatures of at least twenty-five (25) registered electors of the Town.

The Moderator shall chair and determine the procedure of each Town Meeting called during his or her term of office, and shall serve without pay. If the Moderator is physically unable to chair a meeting, the Moderator shall name a substitute. If the Moderator is unable to name a substitute the Town Meeting shall, as a first order of business not included in the meeting agenda, elect a Moderator for the meeting, and the Town Clerk shall preside over the meeting until a Moderator is chosen. (Amended 11/5/91; 11/4/97)

Section 16.5. Town Meeting Procedure.

No registered elector of the Town shall be denied admission or the right to vote in the Town Meeting. The Town Clerk and his or her deputies shall deny admission to the Town Meeting to all persons who are not registered electors of the Town; provided, however, that any member of the working press and any person certified by the

Clerk as an observer shall be admitted, but shall be prohibited from voting. The Town Clerk shall take minutes of each Town Meeting.

No action may be taken at a Town Meeting unless the Town Clerk determines that a quorum is present at the time of each vote. A Town Meeting quorum shall be registered electors equal in number to at least one-third (⅓) of the number of electors voting in the last regular municipal election. The Moderator shall preside according to reasonable parliamentary procedure, denying no person or viewpoint the right to be heard, and preventing intemperate or obstructive conduct. The Moderator shall publicly declare the result of each vote.

The Town Meeting may, at the discretion of the Moderator, take an action by voice vote of "yes" or "no," or by show of hands responding to "yes" or "no" vote requests, or by division of the meeting into "yes" and "no" spaces. An action shall be deemed to be taken when the number of "yes" votes exceeds the number of "no" votes on any question.

Section 16.6. Ratification by Council.

The Town Council shall cause each action of the Town Meeting to be recorded, ratified and entered upon the public records of the Town without substantial change. The Council shall have the power to change the detailed language of any action passed by the Town Meeting in written form, provided that such change shall not materially alter the substantial provisions of the action.

In the case of an ordinance, such recording and ratification shall be performed by the Town Council without first reading or public hearing. The enacting clause of any ordinance passed at a Town Meeting or ratified by the Council as a result of a Town Meeting shall be: BE IT ORDAINED BY THE PEOPLE OF THE TOWN OF TELLURIDE ASSEMBLED IN TOWN MEETING. Such ordinances shall take effect upon publication in accordance with Section 4.12.E, and may not be substantially modified by the Council within one (1) year of taking effect, but may be referred to the voters at any time.

Section 16.7. Veto.

The Town Council may veto any action of the Town Meeting by a vote of all seven (7) Councilpersons in favor of a veto, no more than thirty (30) days after the action is taken.

-A-

ATTORNEY, TOWN
Appointment, compensation, powers, duties generally 8.1
Relationship with Council 7.5

AUDIT
Required, independent 10.13

-B-

BOARDS AND COMMISSIONS
Appointment 9.2
Composition 9.2
Conflicts of interest 4.18
Continuance 9.1
Establishment, rules of procedure 9.3
Existing boards and commissions 9.1
Removal of members 9.4
Terms of office 9.2
Vacancy, filling 9.5

BUDGET
Adoption 10.8
Amendment
after adoption 10.12
generally 10.7
Audit required, independent 10.13
Capital program preparation, contents, submittal 10.5
Contents 10.4
Contingencies 10.10
Hearing, public 10.6
Message, purpose 10.3
Preparation, submittal 10.2
Property tax levy 10.9
Records, public 10.11

-C-

CHARTER
Amendment procedure 14.6
Effective date 15.1
Grammatical interpretation 14.7
Saving clause 15.5
Severability 14.5
Violation, penalty 14.8

CLAIMS AGAINST TOWN
Procedure designated 14.4

CLERK, TOWN
Appointment, powers, duties generally 7.8
Council, Town
meetings, special, calling 4.3
vacancy notice duties 3.5
Election commission membership 2.5
Elector registration 2.4
Initiative, referendum petitions
certification 6.4
issuance 6.2
Ordinance disposition signature 4.16

CODES, SECONDARY
Adopted by reference, procedure, copies on file 4.15

CONFLICTS OF INTEREST
Generally 4.18

COUNCIL, TOWN
Appointing authority
Acting Town Manager 7.2
Municipal Judge, deputies 8.2
Town Attorney 8.1
Town Manager 7.1
Boards, commissions
member removal authority 9.4
vacancy filling 9.5
Budget
adoption 10.8
amendment duties 10.12
property tax levy 10.9
Compensation 3.4
Composition 3.1
Conflicts of interest 4.18
Mayor
duties, powers 5.2
vacancy 5.5
Mayor Pro Tem
election 5.1
vacancy filling 5.4
Meetings
actions by ordinance, motion, resolution 4.7
adjournment 4.5
emergency meetings 4.4

COUNCIL, TOWN (Cont'd)
Meetings (cont'd)
open to public 4.6
organizational meeting 4.1
quorum 4.5
regular meetings 4.2
special meetings 4.3
voting procedure generally 4.8
Oath of office 3.7
Ordinances
action by required 4.9
codification duties 4.14
disposition 4.16
emergency ordinances 4.13
form 4.11
procedures generally 4.12
Town Council action by 4.7
voting 4.8
extraordinary majority required 4.10
Powers, duties generally 3.6
Qualifications 3.3
Relationship with Manager, Attorney 7.5
Tax levy authority 12.1
Term of office 3.2
Town meetings
actions ratification 16.6
call to meeting duties 16.2
veto 16.7
Utilities, municipal, service rates, areas establishment 13.3
Vacancy, filling 3.5

-D-

DEPARTMENTS
Continuance, creation, merger, abolition 7.9

-E-

ELECTION COMMISSION
Created, composition, powers, duties 2.5

ELECTIONS
Amendment of provisions 2.11
Ballot
absentee ballots 2.9
language 2.8
mail-in ballots 2.9
Charter adoption, first election after 15.2
Date, calling, polling places 2.1
Electors, qualifications, registration 2.4
Nomination of candidates 2.6
Nonpartisan 2.2
Polling places 2.1
Precincts 2.3
Recall procedure 2.7
Statutory provisions, conformance 2.10

EMINENT DOMAIN
Rights of Town 14.1

-F-

FINANCE
See also BUDGET; MUNICIPAL BORROWING
Audit 10.13
Fiscal year designated 10.1
Levy of taxes 12.1
Public records 10.11

FISCAL YEAR
Designated 10.1

FRANCHISES
Existing, continuance 13.7
Grant period 13.4
Records, contents, availability 13.6
Review, periodic 13.5

-I-

INITIATIVE, REFERENDUM
Petitioners' committee, formation, affidavit 6.2
Petitions
action 6.6
certification, amendment 6.4
circulation, signature requirements 6.3
referendum petition, effect on ordinance 6.5
Power of electors, authority 6.1
Results of election, effect 6.8
Submission to electors
by Council on own motion 6.7
petition, vote procedure 6.6

-L-

LOCAL IMPROVEMENT DISTRICTS
Creation, assessments, bonds 11.5

-M-

MANAGER, TOWN
Acting Manager, Mayor serving as, when 7.2
Appointing authority
Clerk 7.8
Treasurer 7.6
Appointment, designated chief administrative officer 7.1
Budget
appropriations amendment duties 10.12
capital program preparation, submittal 10.5
preparation, submittal 10.2
Powers, duties generally 7.3
Relationship with Council 7.5
Removal 7.4

MAYOR
Acting Manager, serving as, when 7.2
Compensation 3.4
Election, Town Council membership 3.1
Ordinance disposition signature 4.16
Powers, duties generally 5.2
Pro Tem
election, powers, duties 5.1
powers, duties generally 5.3
vacancy, filling 5.4
Relationship with Council 7.5
Vacancy, filling 5.5

MUNICIPAL BORROWING
General obligation bonds 11.2
Limitations generally 11.7
Local improvement bonds 11.5
Permitted forms 11.1
Refunding bonds 11.4
Revenue bonds 11.3
Short term notes 11.6
Special improvement district bonds 11.5

MUNICIPAL COURT
Jurisdiction, procedures generally 8.2

MUNICIPAL JUDGE
Appointment, removal, duties generally 8.2

-O-

ORDINANCES
Action by required 4.9
Codification duties 4.14
Disposition 4.16
Emergency ordinances 4.13
Form 4.11
Procedures generally 4.12
Town council action by 4.7
Voting 4.8
extraordinary majority required 4.10

-R-

RECORDS, TOWN
Public, inspection availability 4.17

-T-

TAXES
Levy authority generally 12.1

TOWN
Continuance, name, boundaries 1.1
De-annexation authority 14.3
Form of government 1.3
Liability for claims 14.4
Municipal powers, functions, authority 1.2
Reservation of powers 14.2

TOWN MEETING
Call to meeting, procedures designated 16.2
Council actions
ratification 16.6
veto 16.7
Frequency 16.1
Meeting procedure 16.5
Moderator; election, powers, duties generally 16.4
Powers designated 16.3
Procedure generally 16.5

TRANSITION PERIOD
Election, first after Charter adoption 15.2
Extended terms 15.6
Officials, present, to continue 15.4
Prior legislation 15.3
Saving clause 15.5

TREASURER, TOWN
Appointment 7.6
Powers, duties generally 7.7

-U-

UTILITIES, MUNICIPAL
Powers generally 13.1
Rates 13.3
Service areas generally 13.3
Water rights 13.2

-W-

WATER RIGHTS
Powers of Town 13.2

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TOWN OF TELLURIDE

CODE TABLE OF CONTENTS

Chapter 1 General Provisions 1-i

Article 1 Code
Article 2 Definitions and Usage
Article 3 General
Article 4 General Penalty
Article 5 Applications and Permissions
Article 6 Town Seal

Chapter 2 Administration 2-i

Article 1 Elections
Article 2 Officers and Employees
Article 3 Municipal Court
Division 1 General Provisions
Division 2 Procedures
Article 4 Ethics Code
Article 5 General Provisions for Commissions
Article 6 Commission for Community Assistance, Arts and Special Events
Article 7 Ecology Commission
Article 8 Open Space Commission
Article 9 Parks and Recreation Commission

Chapter 3 Reserved

Chapter 4 Revenue and Finance 4-i

Article 1 Establishment and Management of Funds
Article 2 Sales and Use Tax
Division 1 General Provisions
Division 2 Sales Tax
Division 3 Use Tax
Division 4 Violations and Limitations
Article 3 Real Estate Transfer Tax
Article 4 Excise Tax
Article 5 Property Tax
Article 6 Procurement Code
Division 1 General Provisions
Division 2 Procurement Organization and Authority
Division 3 Source Selection and Contract Formation
Division 4 Methods of Disposal
Division 5 Legal and Contractual Remedies

Chapter 5 **Franchises and Communication Systems** **5-i**
Article 1 Franchise Applications
Article 2 Emergency Telephone Service

Chapter 6 **Business Licenses and Regulations** **6-i**
Article 1 Business Licenses
Article 2 Liquor Licenses
Division 1 *Liquor Licensing Authority*
Division 2 *Liquor Licensing*
Division 3 *Hotel and Restaurant Optional Premises Liquor Licenses*
Article 3 Admission Fees for Festivals and Events in Town
Article 4 Vending
Article 5 Medical Marijuana
Section 100 *General*
Section II *Medical Marijuana Licensing Authority*
Section III *Licenses*
Section IV *Disciplinary Actions Against Licenses*
Section V *License Hearings*
Section VI *Reserved*
Section VII *Violation and Penalties*
Article 6 Retail Marijuana Stores and Marijuana Testing Facilities

Chapter 7 **Health, Sanitation and Animals** **7-i**
Article 1 Administration and Abatement of Nuisances
Article 2 Nuisances
Article 3 Clean Indoor Air Act
Article 4 Solid Fuel Burners
Article 5 Refuse
Division 1 *Removal of Accumulations*
Division 2 *Collection Requirements*
Division 3 *Collection Charges*
Division 4 *Nuisances and Offenses*
Article 6 Animals
Division 1 *General Provisions*
Division 2 *Care and Keeping of Animals and Impoundment*
Division 3 *Dogs*
Article 7 Prohibition on Disposable Plastic Bags

Chapter 8 **Vehicles and Traffic** **8-i**
Article 1 Model Traffic Code
Article 2 Operating, Standing, Stopping and Parking
Article 3 Abandonment and Impoundment

Chapter 9 **Reserved**

Chapter 10 **General Offenses** **10-i**
Article 1 General Provisions
Article 2 Government and Public Officers

Article 3 Streets and Public Places
Article 4 Public, Private and Personal Property
Article 5 Public Peace, Order and Decency
Article 6 Discriminatory Practices
Article 7 Alcoholic Beverages
Article 8 Weapons
Article 9 Hang Gliding Regulations

Chapter 11 Streets, Sidewalks and Public Places..... 11-i
Article 1 Sidewalk Construction and Maintenance
Article 2 Public Utilities Construction
Article 3 Newsracks
Article 4 Festival Events

Chapter 12 Reserved

Chapter 13 Municipal Utilities..... 13-i
Article 1 General Provisions
Article 2 Service Charges
Article 3 Unlawful Practices
Article 4 Cross-Connection Control
Article 5 Water Conservation Code

Chapter 14 Reserved

Chapter 15 Building Regulations..... 15-i
Article 1 International Building Code
Article 2 International Residential Code
Article 3 International Existing Building Code
Article 4 National Electrical Code
Article 5 International Plumbing Code
Article 6 International Fire Code
Article 7 International Mechanical Code
Article 8 International Fuel Gas Code
Article 9 Energy Codes
Article 10 International Property Maintenance Code
Article 11 Construction Mitigation Plan
Article 12 Design Standards and Construction Specifications
Article 13 Engineering Review Costs
Article 14 Public Improvement Reimbursement
Article 15 Building Street Address Number
Article 16 Board of Adjustment and Appeals
Appx 15-A National Trust for Historic Preservation Amendments to the IEBC

Chapter 18 Land Use Code (This Code is published under separate cover)

TABLES

Code Comparison Table..... T-1
Disposition of Ordinances Table..... T-6

INDEX I-1

CHAPTER 1

General Provisions

Article 1 Code

Sec. 1-1-10 Adoption of Code
Sec. 1-1-20 Title, citation, reference
Sec. 1-1-30 Code supersedes prior ordinances
Sec. 1-1-40 Adoption of secondary codes by reference
Sec. 1-1-50 Matters not affected by repeal
Sec. 1-1-60 Ordinances saved from repeal
Sec. 1-1-70 Changes in previously adopted ordinances

Article 2 Definitions and Usage

Sec. 1-2-10 Definitions
Sec. 1-2-20 Abbreviations
Sec. 1-2-30 Computation of time
Sec. 1-2-40 Title of office
Sec. 1-2-50 Usage of terms
Sec. 1-2-60 Grammatical interpretation

Article 3 General

Sec. 1-3-10 Titles and headings not part of Code
Sec. 1-3-20 Authorized acts
Sec. 1-3-30 Prohibited acts
Sec. 1-3-40 Purpose of Code
Sec. 1-3-50 Repeal of ordinances
Sec. 1-3-60 Declaration of intent or necessity unaffected
Sec. 1-3-70 Amendments to Code
Sec. 1-3-80 Supplementation of Code
Sec. 1-3-90 Copy of Code on file
Sec. 1-3-100 Sale of Code books
Sec. 1-3-110 Recodification
Sec. 1-3-120 Publication of notice
Sec. 1-3-130 Reference to specific ordinances
Sec. 1-3-140 Severability
Sec. 1-3-150 Enabling power
Sec. 1-3-160 Citations in Code
Sec. 1-3-170 Hold harmless
Sec. 1-3-180 Extraterritorial jurisdiction

Article 4 General Penalty

Sec. 1-4-10 General penalty for violation
Sec. 1-4-20 Application of penalties to juveniles

Article 5 Applications and Permissions

Sec. 1-5-10 False information voids permission
Sec. 1-5-20 Revocation of permissions
Sec. 1-5-30 Town liability denied
Sec. 1-5-40 Expert review at applicant's expense
Sec. 1-5-50 Mailed notice at applicant's expense
Sec. 1-5-60 Town Permits, Licenses, Compensation, Permissions Withheld

Article 6 Town Seal

Sec. 1-6-10 Description
Sec. 1-6-20 Use authorized

ARTICLE 1

Code

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

The published code known as the *Telluride Municipal Code,* published by Colorado Code Publishing Company, Fort Collins, Colorado, 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 Telluride, Colorado, as a codification of all the ordinances of the Town of Telluride of a general and permanent nature through Ordinance No. 1288, 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. (Prior code 1.01.010; Ord. 1288 §1, 2008)

Sec. 1-1-20. Title, citation, reference.

(a) This Code shall be known as the *Telluride Municipal Code*, and it shall be sufficient to refer to the Code as the *Telluride Municipal Code* in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any portion thereof as an addition, amendment to, correction or repeal of the *Telluride Municipal Code*. Further reference may be had to the chapters, articles, sections and subsections of the Code, and such references shall apply to that numbered chapter, article, section or subsection as it appears in the Code.

(b) Whenever a reference is made to this Code or to any ordinance of the Town, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Prior code 1.01.020, 1.01.050, 1.04.010; Ord. 1288 §1, 2008)

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

This Code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances and parts of ordinances passed by the Town Council. (Ord. 1288 §1, 2008)

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

Secondary codes may be adopted by reference, as provided by state law. (Prior code 1.04.140; Ord. 1288 §1, 2008)

Sec. 1-1-50. Matters not affected by repeal.

Neither the adoption of this Code nor the repeal or amendment of any ordinance or part or portion of any ordinance of the Town shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the ordinances codified in this Chapter, nor be construed as a waiver of any license, fee or penalty at such effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provision applicable to any violation thereof, nor to affect the validity of any bond or cash deposit pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Prior code 1.01.080)

Sec. 1-1-60. Ordinances saved from repeal.

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

(1) Creating, opening, dedicating, naming, renaming, vacating or closing specific streets, alleys and other public ways.

(2) Establishing the grades or lines of specific streets, sidewalks and other public ways.

(3) Creating specific sewer and paving districts and other local improvement districts.

(4) Authorizing the issuance of general obligation or specific local improvement district bonds of the Town, or of any other evidence of the Town's indebtedness.

(5) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.

(6) Annexing territory to or excluding territory from the Town.

(7) Dedicating or accepting any specific plat or subdivision.

(8) Calling or providing for a specific election.

(9) Authorizing specific contracts for purchase of beneficial use of water by the Town.

(10) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.

(11) Authorizing a specific lease, sale or purchase of property.

(12) Granting a franchise.

(13) Promising or guaranteeing the payment of money for the Town.

(14) Appropriating money.

(15) Providing for an annual budget.

(16) Levying an ad valorem tax on real property.

(17) Relating to salaries for Town employees.

(18) Amending the Official Zoning Map.

(19) Dealing with matters not generally codified according to reasonable codification industry standards. (Prior code 1.04.170; Ord. 1288 §1, 2008)

Sec. 1-1-70. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the Town for adoption and revision as part of this Code, certain grammatical changes and other changes were made in one (1) or more of said ordinances. It is the intention of the Town Council that all such changes be adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such. (Ord. 1288 §1, 2008)

ARTICLE 2

Definitions and Usage

Sec. 1-2-10. Definitions.

The following definitions shall apply throughout the Code, except where explicitly provided therein to the contrary or where such application would be manifestly inconsistent with the plain intent of the Town Council. Additional definitions applying to individual sections or articles are set out therein. For any terminology which is used in this Code and is not expressly defined, reference shall first be made to definitions in the Colorado Criminal Code and, if the terminology is not suitably defined therein, such terminology shall be construed as being used in its ordinary, usual and accepted sense and meaning:

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

Council means the Town Council of the Town.

County means the County of San Miguel, Colorado.

Governmental function means any activity which a public servant is legally authorized to undertake on behalf of the State or any duly authorized subdivision thereof.

Interest: Whenever an interest rate is not explicitly set out by any Code provision, the rate of *interest* or of *reasonable interest* shall be equal to the interest rate on a ten-thousand-dollar certificate of deposit generally offered by a local bank as of the date the principal became due. The rate shall be effective for one (1) year. It shall be changed annually to the interest rate offered on the certificates on the date one (1) year subsequent to the date in respect to which the former interest rate was computed. If no such certificates were available at the bank on the date specified, the rate of interest shall be computed from the interest rate offered on such certificates by the nearest bank offering such certificates. If such certificates were not available at any bank, then the interest rate shall be fifteen percent (15%).

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

May is permissive.

Month means a calendar month.

Must and *shall* are both mandatory.

Notice to owner of real property has been given as of the date of mailing of the notice to either of the following:

a. One (1) of the registered owners of the property at the address shown on the County tax rolls or in the records of the County Assessor; or

b. One (1) of the owners of the property at the last known address for the owner as taken from the Town's records.

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

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

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

Permission refers to any kind of authorization, permit or approval given by any agent or agency of the Town which is authorized to give such to any person. It includes but is not limited to a building permit, plumbing permit, zoning permit, sign permit or other permits issued under this Code, a certificate or temporary certificate of appropriateness, a conceptual approval, a hazard area approval, the approval of an application for a use permitted on review or for a variance, a certificate of occupancy or any license.

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

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

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

Property includes real and personal property.

Public place means any place to which the public, or a substantial number of the public, has access. This includes but is not limited to public rights-of-way for vehicles or pedestrians, transportation facilities, schools, places of amusement, parks, playgrounds and common areas of public and private buildings and facilities.

Public servant means any officer or employee of the State or any duly authorized subdivision thereof, whether elected or appointed, and any person participating as an advisor, consultant, process server or otherwise, in performing a governmental function. The term does not include witnesses.

Real property includes lands, tenements and hereditaments.

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

State means the State of Colorado.

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

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

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

Utility means any enterprise which provides gas, sewer, electricity, steam, water, transportation or communication services (including but not limited to television, radio and telephone), and includes any carrier, pipeline, transmitter or source, whether owned and operated publicly or privately.

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

Year means a calendar year. (Prior code 1.04.020; Ord. 1288 §1, 2008)

Sec. 1-2-20. Abbreviations.

The following abbreviations have the meanings indicated. If the abbreviation means a code adopted in this Code by reference, and is used without a date specifying the edition of the code, it refers to the latest edition of the code which has been adopted by the Town Council.

CCAASE means the Commission for Community Assistance, Arts and Special Events.

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

Et seq. means literally and those that follow.

HARC means the Historic and Architectural Review Commission.

IBC means the International Building Code.

IEBC means the International Existing Building Code.

IFC means the International Fire Code.

IFGC means the International Fuel Gas Code.

IMC means the International Mechanical Code.

IPC means the International Plumbing Code.

IPMC means the International Property Maintenance Code.

IRC means the International Residential Code.

LUC means the Telluride Land Use Code.

MTC means the Model Traffic Code.

NEC means the National Electric Code.

P&Z means the Planning and Zoning Commission.. (Prior code 1.04.030; TMC Supp. 5)

Sec. 1-2-30. Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day; but if the time for an act to be done shall fall on Saturday, Sunday or a legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday. (Prior code 1.04.090; Ord. 1288 §1, 2008)

Sec. 1-2-40. Title of office.

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the Town, or his or her designated representative. (Prior code 1.04.040; Ord. 1288 §1, 2008)

Sec. 1-2-50. Usage of terms.

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning. (Prior code 1.04.050)

Sec. 1-2-60. Grammatical interpretation.

The following grammatical rules shall apply throughout this Code unless it is apparent from the context that a different construction is intended:

(1) Gender. Each gender includes the masculine, feminine and neuter genders.

(2) Singular and plural. The singular number includes the plural and the plural includes the singular.

(3) Tenses. Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable. (Prior code 1.04.060)

ARTICLE 3

General

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

Chapter and article titles, headings, numbers and titles of sections and other divisions contained in this Code or in supplements made to this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any chapter, article or section of this Code, are inserted in this Code and may be inserted in supplements to this Code for the convenience of persons using this Code. (Prior code 1.01.060; Ord. 1288 §1, 2008)

Sec. 1-3-20. Authorized acts.

When an act is required by an ordinance, the same being such that it may be done as well by an agent, designee or representative as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent, designee or representative. (Prior code 1.04.070; Ord. 1288 §1, 2008)

Sec. 1-3-30. Prohibited acts.

Whenever in the ordinances of the Town or in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Prior code 1.04.080; Ord. 1288 §1, 2008)

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

The provisions of this Code, and all proceedings under them, are to be construed with a view to effect their objectives and to promote justice. (Prior code 1.04.100; Ord. 1288 §1, 2008)

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

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby. A repealed ordinance may be revived only if language in this Code or in a subsequent ordinance explicitly brings the repealed ordinance back into effect. (Prior code 1.04.180; Ord. 1288 §1, 2008)

Sec. 1-3-60. Declaration of intent or necessity unaffected.

Declarations of legislative intent or of the necessity of legislation for the protection of public health, welfare or safety, which declarations are contained in any ordinance which is codified in this Code, whether or not the substance of the ordinance was modified when codified, may be considered, notwithstanding the repeal of the ordinance, by any court which interprets or adjudges the enforceability of any part of this Code. (Prior code 1.04.190)

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

(1) Amendments defined. *Amendments*, in this Section, includes any additions to, changes in or deletions from any part of this Code.

(2) How effected. All amendments to this Code shall be by ordinance. However, corrections of manifest mistakes in the text, as well as amendments to the editorial comment contained in this Code, may be made by order of the Town Council or Town Attorney.

(3) Codification of new legislation. In order to keep this Code current, as is required by Section 4.14 of the Town Charter, all new legislation which deals with any subject treated in this Code, and all new ordinances of a permanent and general nature which deal with any other subject which is suitable for codification in this Code, shall be in the form of an amendment to this Code and shall be inserted and made a part of this Code as provided in Section 1-3-80 below. (Prior code 1.04.020; Ord. 1288 §1, 2008)

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

(1) Drafting by Town Attorney. The Town Attorney shall ensure that all amendments to this Code are numbered and written so as to be consistent with the system used in this Code. Amendments which add provisions to this Code shall be given new section or subsection numbers which will give the provisions reasonable location in this Code amid related provisions. Amendments which change any provision of this Code shall set out the full text of the affected sections or subsections as they will read as amended. Amendments which delete any provisions of this Code shall state clearly the numbers of the sections or subsections so deleted.

(2) Incorporation into text. The Town Attorney may, from time to time, order the incorporation of any or all amendments into the text of this Code. In the event the Town Attorney does this, the part of the Code affected shall be reprinted and certified as correct by resolution of the Town Council. Copies shall be made and certified and the Town Clerk shall replace the affected part of the Code by the new certified text, in both the original and the certified copies required in Section 1-3-90 below. (Prior code 1.04.020)

Sec. 1-3-90. Copy of Code on file.

The original version of this Code shall be kept in the office of the Town Clerk at all times, and shall be prima facie evidence of the law of this Town. No fewer than two (2) certified copies shall be kept at Town Hall and shall be available for public inspection during business hours. A third certified copy shall be kept either in Town Hall or in the office of the Town Attorney. (Prior code 1.04.110; Ord. 1288 §1, 2008)

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

Copies of this Code book may be purchased from the Town Clerk upon the payment of a fee to be set by resolution of the Town Council. (Ord. 1288 §1, 2008)

Sec. 1-3-110. Recodification.

The Town Attorney shall recommend to the Town Council recodification of this Code and subsequent ordinances and amendments, when and if they become so unwieldy as so to warrant. (Prior code 1.04.130)

Sec. 1-3-120. Publication of notice.

(1) Whenever, by Home Rule Charter, or Town of Telluride code public notice is required to be given by publication, it shall be published to the Town of Telluride Web Site unless otherwise required by State of Colorado Revised Statutes or by the Town of Telluride Home Rule Charter. If the Town of Telluride Web Site is not available to the public on the publish date, publication shall be in the Town designated newspaper described below. (Ord. 1329, 2010)

(2) Whenever, by Home Rule Charter, or State of Colorado Revised Statute, public notice is required to be given by publication in a newspaper of general circulation, it shall be published in a newspaper which has been of general circulation within the Town (and published within the County) continuously for a minimum of six (6) months. General circulation shall not be determined solely by the number of subscribers but also by the diversity of readers and general nature of subject matter. The Town shall designate the newspaper in which State of Colorado and Home Rule Charter mandated legal notices shall be published and may contract, after competitive bidding, with the newspaper to establish publication rates and any other terms and conditions as the Town deems appropriate. (Ord. 1329, 2010)

(3) Proof of the publication of any such published notice to the Town of Telluride Web Site shall be by affidavit of the Town Clerk, which affidavit shall state the number of times and the dates on which the public notice was published, with a printed copy of such public notice attached. (Ord. 1329, 2010)

(4) Proof of the publication of any such published notice in a newspaper of general circulation shall be made by affidavit of the publisher of the newspaper in which the publication is made or by any other competent person who has personal knowledge of the essential facts, which affidavit shall state the number of times and the dates on which the legal notice was published, with a printed copy of such legal notice attached. (Prior code 1.04.230) (Ord. 1329, 2010)

Sec. 1-3-130. Reference to specific ordinances.

The provisions of this Code shall not in any manner affect matters of record which refer to or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code; such reference shall be construed to apply to the corresponding provisions contained within the Code. (Prior code 1.01.070)

Sec. 1-3-140. Severability.

The sections, subsections, paragraphs, sentences, clauses, phrases, words and any other provisions of this Code are declared to be severable, and if any word, phrase, clause, sentence, paragraph, subsection, section, provision or part of this

Code is 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 1.01.100, 1.04.200; Ord. 1288 §1, 2008)

Sec. 1-3-150. Enabling power.

The Town Council declares that, unless explicitly provided elsewhere to the contrary, its power to enact each provision of this Code derives from:

(1) Article XX, Section 6 of the Colorado Constitution and Section 14.2 of the Town Charter, so long as this derivation of power does not render the provision invalid or unenforceable; or

(2) State enabling legislation, if and only if this derivation of power from state legislation is more effective in sustaining the validity or unenforceability of the provision of this Code than is the derivation in Paragraph (1) above. (Prior code 1.04.150)

Sec. 1-3-160. Citations in Code.

Whenever any reference in this Code cites a portion of the state Constitution, the Charter or state laws as enabling the Town to adopt any provision of this Code, the reference is advisory only, pointing to possible alternative enabling sources and shall not affect the choice of power derivation dictated in Section 1-3-150 above. (Prior code 1.04.160)

Sec. 1-3-170. Hold harmless.

In the event the Town's general and/or professional and/or errors/omissions insurance policies in effect at any given time do not provide full liability coverage for the Mayor and Councilpersons in regard to any claim or action brought against them or any one (1) of them, arising from or in connection with their conduct as Town officials, the Town agrees to defend and hold harmless the Mayor and/or Councilpersons against any and all liability, costs, attorney's fees and/or damages as may be incurred or assessed as a result of such claim or actions; provided, however, that the conduct giving rise to any claim or action was not the result of willful or wanton acts or omissions on the part of the Mayor and/or Councilperson or undertaken outside the scope of their official duties. (Prior code 1.04.220; Ord. 1288 §1, 2008)

Sec. 1-3-180. Extraterritorial jurisdiction.

All ordinances and penalties as contained in this Code shall fully apply to and govern all activities and uses on all municipally owned park and open space lands located beyond the geographical boundaries of the Town in the same manner as if such lands were located within Town boundaries, as authorized by Section 31-25-216, C.R.S. (Prior code 1.04.210)

ARTICLE 4

General Penalty

Sec. 1-4-10. General penalty for violation.

(a) No person shall violate or fail to comply with any of the provisions of this Code or the ordinances of the Town. Except in cases where a different punishment is prescribed by any ordinance of the Town:

(1) Any person who violates any criminal provision of this Code or any ordinance of the Town shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment, except as provided in Section 1-4-20 below.

(2) Any person who violates any noncriminal provision of this Code or any ordinance of the Town shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars ($1,000.00), except as provided in Section 1-4-20 below.

(b) Each such person shall be guilty of a separate violation for each and every day during any portion of which any violation of any provision of this Code or the ordinances of the Town is committed, continued or permitted by any such person, and such person shall be punished accordingly. (Prior code 1.16.110; Ord. 1288 §1, 2008)

Sec. 1-4-20. Application of penalties to juveniles.

(1) 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.

(2) If an alleged offender was at the time of the alleged offense under the age of eighteen (18) and over the age of nine (9), the Municipal Court does not have jurisdiction to sentence the offender to a jail term of any duration unless the offender has been convicted for a violation of a traffic offense under Chapter 8 of this Code. (Prior code 1.16.040, 1.16.060; Ord. 1288 §1, 2008)

ARTICLE 5

Applications and Permissions

Sec. 1-5-10. False information voids permission.

Whenever any agent or agency of the Town issues to any person any permission which was issued in reliance upon any material false statement in the application therefor, or in supporting documents or oral statements by the applicant, the permission shall be absolutely void, *ab initio*, and shall be revoked at once upon discovery of the false statement. (Prior code 1.12.010)

Sec. 1-5-20. Revocation of permissions.

Any permission issued by any agent or agency of the Town to any person may be revoked if any of the following is true:

(1) The application for the permission was insufficient, under this Code, for valid issuance of the permission;

(2) The permission was issued, or continues in effect, in violation of this Code; or

(3) The permission was issued due to an error or mistake. (Prior code 1.12.020)

Sec. 1-5-30. Town liability denied.

Whenever the Town, its agent or its agency issues permission, the Town makes no warranty or promise, express or implied, that the activity, structure or use thereby authorized is safe. The Town shall not be liable for permission issued by mistake; nor shall the Town be liable for any conduct, structure or use commenced or created in reliance on the Town's permission; nor does the Town make any warranty, either express or implied, that any activity, construction or use is safe by virtue of the fact that no permission is required by this Code before one may undertake it. (Prior code 1.12.030)

Sec. 1-5-40. Expert review at applicant's expense.

Whenever the agent or agency charged with reviewing an application for permission under this Code should find that the substance, the application or the questions for review are so technical or complex as to warrant the scrutiny or judgment

thereof by persons with greater expertise in such matters, the agent or agency may deny the permission unless the applicant provides sufficient funds for the hiring of one (1) or two (2) licensed or experienced experts, to be selected by the agent or agency, to review the technical or complex matters. (Prior code 1.12.040)

Sec. 1-5-50. Mailed notice at applicant's expense.

Whenever any person applies for any kind of permission or for any kind of legislative or administrative action, and under the law a requirement for the granting of the permission or for the taking of the action is the mailing of notice to three (3) or more persons, the Town Clerk or any other Town representative responsible for mailing the notice may, with the permission of the Town Manager, order the person applying to pay a fee to cover the Town's expenses in administering the notice requirement. The fee shall be in addition to any and all other fees required by this Code or by state law. The Town Manager shall set the fee at an amount which he or she reasonably determines to be equal to the amount of the expenses. If, having been so ordered, the person applying fails promptly to pay the fee in full, this failure shall be sufficient grounds for the denial of the person's application. (Prior code 1.12.050)

Sec. 1-5-60 Town Permits, Licenses, Compensation, Permissions Withheld

No person or related entity that has failed to complete mandatory community service as required by a lawful order of the Telluride Municipal Court, or who is delinquent in the payment of any money owed to the Town, in any amount or for any purpose, including, but not limited to, any delinquent taxes, required Town license or permit fees, Telluride Municipal Court fines, fees, surcharges or assessments, or Town parking tickets or other assessments, may be granted any Town permit, license, other Town discretionary permission, nor shall they assign or transfer such approvals, permits or licenses, nor shall they be paid any consideration from the Town, pursuant to a contractual obligation or otherwise, until they can provide proof of having completed any required Town community service and payment in full for such amounts that are due and owing to the Town has been received by the Town or other financial arrangements are made that are satisfactory to the Town Manager. (Ord. 1311, 2009; Ord. 1368, 2012)

ARTICLE 6

Town Seal

Sec. 1-6-10. Description.

The seal of the Town shall be not more than two (2) inches in diameter, and shall contain in the center the word "Seal," and around the outer edge thereof the words "Town of Telluride, San Miguel County, Colorado. (Prior code 1.08.010)

Sec. 1-6-20. Use authorized.

The use of the Town seal and the impression thereof is authorized and directed whenever and wherever the seal of the Town is lawfully required, and the use of such seal and the impression thereof made, and the use of any seal and any impression similar thereto used and made whenever and wherever the seal of the Town was lawfully required, in 1909 and before the effective date of the initial ordinance codified in this Article, is confirmed, ratified and approved. (Prior code 1.08.020; Ord. 1288 §1, 2008)

CHAPTER 2

Administration

Article 1 Elections

Sec. 2-1-10 Precinct Designation
Sec. 2-1-20 Withdrawal from nomination
Sec. 2-1-30 Write-in votes
Sec. 2-1-40 Absentee/Mail-in ballots
Sec. 2-1-50 Provisional ballots
Sec. 2-1-60 Cancellation of election
Sec. 2-1-70 Alien Registration lists
Sec. 2-1-80 Watchers
Sec. 2-1-90 Nonpartisan issue petitions and nominating petitions
Sec. 2-1-100 Reserved
Sec. 2-1-110 Political signs
Sec.2-1-120 Town Clerk rules
Sec.2-1-130 Town Clerk - challenge

Article 2 Officers and Employees

Sec. 2-2-10 Town Council subcommittees

Article 3 Municipal Court

Division 1 General Provisions
Sec. 2-3-10 Applicability
Sec. 2-3-20 Creation of Municipal Court
Sec. 2-3-30 Jurisdiction
Sec. 2-3-40 Rules of procedure
Sec. 2-3-50 Mens rea and strict liability
Sec. 2-3-60 Area of application
Sec. 2-3-70 Criminal Code provisions adopted
Sec. 2-3-80 Limitations of actions
Sec. 2-3-90 Presumption of responsibility
Sec. 2-3-100 Assessment of costs
Division 2 Procedures
Sec. 2-3-210 Failure to pay fine
Sec. 2-3-220 Community service
Sec. 2-3-230 Applicability
Sec. 2-3-240 Purpose and construction
Sec. 2-3-250 Definitions
Sec. 2-3-260 Commencement of action; charging document; amendment; service
Sec. 2-3-270 Payment of penalty assessment before appearance
Sec. 2-3-280 First appearance
Sec. 2-3-290 Jury trial
Sec. 2-3-300 Right to counsel
Sec. 2-3-310 Speedy trial
Sec. 2-3-320 Final hearing
Sec. 2-3-330 Judgment after final hearing
Sec. 2-3-340 Default
Sec. 2-3-350 Post-hearing motions
Sec. 2-3-360 Appeal

Sec. 2-3-370 Discovery, subpoena, disability of Municipal Judge, time and service and filing of papers

Article 4 Ethics Code

Sec. 2-4-10 Statement of purpose
Sec. 2-4-20 Definitions
Sec. 2-4-30 General guidelines
Sec. 2-4-40 Disclosure guidelines
Sec. 2-4-50 Rules for ethical conduct
Sec. 2-4-60 Declaration required
Sec. 2-4-70 Disqualification from voting and influencing
Sec. 2-4-80 Public challenge
Sec. 2-4-90 Ex parte communications
Sec. 2-4-100 Practice before boards and commissions
Sec. 2-4-110 Acceptance of tickets and passes
Sec. 2-4-120 Subsequent employment
Sec. 2-4-130 Contracts with the Town
Sec. 2-4-140 Confidences to be maintained
Sec. 2-4-150 Conflict review prior to appointment
Sec. 2-4-160 Ethics Commission established
Sec. 2-4-170 Membership
Sec. 2-4-180 Terms of office
Sec. 2-4-190 Meetings
Sec. 2-4-200 Voting
Sec. 2-4-210 Powers and duties
Sec. 2-4-220 Enforcement
Sec. 2-4-230 Penalty
Sec. 2-4-240 Civil and criminal liability
Sec. 2-4-250 Challenges of bias

Article 5 General Provisions for Commissions

Sec. 2-5-10 Good cause
Sec. 2-5-20 Advisory rulings on conflicts of interest
Sec. 2-5-30 Unexpired terms; vacancies
Sec. 2-5-40 Challenges of members for bias

Article 6 Commission for Community Assistance, Arts and Special Events

Sec. 2-6-10 Established
Sec. 2-6-20 Membership
Sec. 2-6-30 Vote; term
Sec. 2-6-40 Organization and meetings
Sec. 2-6-50 Mission
Sec. 2-6-60 Duties

Article 7 Ecology Commission

Sec. 2-7-10 Established
Sec. 2-7-20 Composition
Sec. 2-7-30 Terms; vacancies
Sec. 2-7-40 Organization; meetings
Sec. 2-7-50 Staff and contracted professionals
Sec. 2-7-60 Powers and duties

Article 8 Open Space Commission

Sec. 2-8-10 Established; members
Sec. 2-8-20 Powers and duties
Sec. 2-8-30 Staff support
Sec. 2-8-40 Open Space Fund; restrictions
Sec. 2-8-50 Definition of open space
Sec. 2-8-60 Open Space Program

Article 9 Parks and Recreation Commission

Sec. 2-9-10 Established
Sec. 2-9-20 Duties
Sec. 2-9-30 Membership

ARTICLE 1

Elections

Sec. 2-1-10. Precinct Designation.

The Town of Telluride is hereby designated as one precinct, Precinct 1.

The precinct so established shall remain for subsequent elections until otherwise provided by ordinance. (Ord. 1364, 2012)

Sec. 2-1-20. Withdrawal from nomination.

(a) In elections by the Colorado Municipal Election Code, any person who has been nominated and accepted such nomination may cause his/her name to be withdrawn from such nomination at any time prior to the 27th day before the election by filing a written affidavit with the Designated Election Official. Nomination deadlines, including Withdrawal of Nomination, for elections conducted by the Uniform Election Code are as found in that Code.

(b) Vacancies in Nomination. If any candidate dies or withdraws from nomination prior to the 27th day before the election, the vacancy may be filled by the vacancy committee, if any. (Ord. 1356, 2011)

Sec 2-1-30 Write in votes.

A person who wishes to be a write-in candidate for an office shall file an affidavit of intent stating that s/he desires the office and is qualified to assume its duties if elected. The affidavit of intent shall be filed by the deadlines cited in 1-4-1102 C.R.S., in elections conducted pursuant to the Colorado Uniform Election Code (Title 1, C.R.S.). In elections conducted pursuant to the Colorado Municipal Code (Title 31, C.R.S.) the affidavit shall be filed by the 26th day prior to the election. Affidavits shall be filed at the office of the Town Clerk. (Prior code 2.04.030; Ord 1242, 2005; Ord. 1288, 2008; Ord. 1307, 2009; Ord. 1356, 2011)

Sec. 2-1- 40. Absentee / Mail–in ballots.

(a) The process and rules for application for absentee/mail-in ballots shall be as cited in 31-10-1002 C.R.S. and 1-8-104 C.R.S. as amended, whichever is applicable.

(b) The vote of any person requesting an absentee/mail-in ballot may be challenged by any person authorized to challenge. The challenge must be in writing, on forms provided by the Designated Election Official, citing the reason for the challenge and must be made after the request for the ballot is received by the Designated Election Official and before the voted ballot is cast.

(c) When a challenge is made to a person who cast an absentee/mail-in ballot and the person was not present at the time of the challenge, the Designated Election Official shall notify and mail a copy of the challenge to the person challenged in accordance with Telluride Town Clerk Rules. (Prior code 2.04.030; Ord. 1288, 2008; Ord. 1307, 2009)

Sec. 2-1- 50. Provisional Ballots

In elections conducted by the Colorado Municipal Election Code, the following section 2-1-50 shall apply. In elections conducted by the Uniform Election Code the provisional ballot section found in that Code shall apply.

(a) Entitlement to Vote

(1) A voter claiming to be properly registered in Town but whose qualification or entitlement to vote cannot be immediately established upon examination of the registration list or the records on file shall be entitled to cast a provisional ballot.

(2) If an elector applies for an absentee/mail-in ballot but spoils it or otherwise does not cast it, the elector may cast a provisional ballot at the polling place, if the elector swears under oath that the elector has not and will not cast the absentee/mail-in ballot. The provisional ballot shall be counted

if the Designated Election Official verifies that the elector is registered to vote and did not cast the absentee/mail-in ballot and the elector's eligibility to vote in the Town is verified.

(3) If a person, whose right to vote is challenged, refuses to answer the questions asked or sign the challenge form or take the oath, the person shall be offered a provisional ballot. If the person casts a provisional ballot, the election judge shall attach the challenge form to the provisional ballot envelope and indicate "challenge" on the provisional ballot envelope.

(4) No elector shall be denied the right to cast a provisional ballot in any Town of Telluride election pursuant to this section.

(b) Form

(1) A provisional ballot shall contain text clearly identifying it as a provisional ballot.

(2) An elector casting a provisional ballot shall complete an affidavit and receive information and instructions on the voting and handling of provisional ballots. The Designated Election Official shall prescribe the language of the affidavit, information, and instructions.

(3) A sufficient number of provisional ballots and ballot envelopes shall be available in all polling places.

(c) Affidavit

(1) The provisional ballot affidavit shall contain language prescribed by the Designated Election Official and shall include an attestation, a notice of perjury, a warning of the penalty for falsifying the affidavit, and information sufficient to verify the elector's eligibility to vote, to register the elector to vote or transfer the elector's registration and contain voter contact information.

(2) The provisional ballot affidavit shall constitute a voter registration application for future elections. Any previous voter registration shall be cancelled. This section shall not apply to an elector who casts a provisional ballot pursuant to section 2.1.50(a)(2) above.

(d) Voting Procedure

(1) An elector casting a provisional ballot shall complete and sign the provisional ballot affidavit and cast the ballot.

(2) The election judge shall indicate that the elector cast a provisional ballot on the poll book next to the elector's name.

(3) The election judge shall examine the provisional ballot affidavit. If the election judge notices that the elector did not sign the affidavit, the election judge shall inform the elector that the provisional ballot will not be counted if the affidavit is not signed.

(4) The provisional ballot envelope containing the marked provisional ballot shall be deposited by the voter into a locked box provided by the election judge. All provisional ballots cast shall remain sealed in their envelopes for delivery to the Designated Election Official/designee.

(5) After an elector casts a provisional ballot, the election judge shall give the elector written notice that an elector who casts a provisional ballot has the right to know whether the vote was counted and the reason if the provisional ballot was not counted. The notice shall include Town Clerk contact information for information on final disposition of the provisional ballot.

(e) Information Verification

(1) The Designated Election Official/designee shall attempt to verify that an elector who cast a provisional ballot is eligible to vote using procedures and databases prescribed in Town Clerk Rules. The Designated Election Official/designee shall complete the preliminary verification of

the elector's eligibility to vote before the ballot is counted.

(2) If the elector signs but does not fill in all the information requested on the provisional ballot affidavit, the ballot shall be counted only if the Designated Election Official is able to determine that the elector was eligible to vote in the precinct.

(3) If the provisional ballot affidavit is not signed, the Designated Election Official shall contact the elector no later than one day after the election informing the elector that the provisional ballot cannot be counted unless the affidavit is signed. The communication shall include that the elector may come to the office of the Designated Election Official to sign the affidavit no later than three days after the election. The Designated Election Official shall document the contact on the provisional ballot log and shall send a followup letter.

(4) If the elector does not sign the provisional ballot affidavit within the allotted time, the provisional ballot shall not be counted.

(5) The Designated Election Official shall determine the time for the verification and counting of provisional ballots. Verified provisional ballots shall be counted by the Election Counting Judges in accordance with this section and Town Clerk Rules.

(6) The Designated Election Official shall complete verification and counting of all provisional ballots within 4 days after an election.

(f) Counting

If the Designated Election Official verifies that an elector who cast a provisional ballot in accordance with this section is eligible to vote, the provisional ballot shall be counted. If the elector's registration cannot be verified, the ballot shall not be counted.

(g) Handling/Reporting

(1) Provisional ballots shall be kept separate from all other ballots until they are eligible to be counted.

(2) If twenty five or more provisional ballots are cast and counted, the Designated Election Official shall report the results of voting as a separate total. If fewer than twenty-five provisional ballots are cast and counted, the results of voting by provisional ballot shall be included in the results of voting by absentee/mail-in ballot.

(3) Votes cast by provisional ballot, if verified, shall be included in any unofficial results reported and shall be reported as part of the official canvass.

(4) The Designated Election Official shall keep a log of each provisional ballot cast, each provisional ballot counted, and each provisional ballot rejected. The Designated Election Official shall keep all rejected provisional ballots in their unopened envelopes for no less than twenty-five months.

(h) Information about a provisional ballot shall be disclosed only to the voter who cast the ballot. General statistics, i.e. the number of provisional ballots, may be reported.

(i) Challenges

The ballot of any provisional voter may be challenged using a challenge form signed by the challenger under penalty of perjury setting forth the name of the person challenged and the basis for the challenge. When a challenge is made to a person who cast a provisional ballot and the person was not present at the time of the challenge, the Designated Election Official shall notify and mail a copy of the challenge to the person challenged in accordance with Telluride Town Clerk Rules. (Ord. 1307, 2009; Ord.1356, 2011; Ord. 1364, 2012)

Sec. 2-1- 60. Cancellation of election.

(a) If the only matter before the voters is the election of persons to office and if, at the close of business on the thirtieth day (in an election conducted under Title 31, C.R.S.) and the sixty-third day (in an election conducted under Title 1, C.R.S.) before the election, there are no more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the Town Clerk shall certify such fact to the Town Council; and it shall hold a meeting and by resolution instruct the Town Clerk to cancel the election and shall declare the candidates elected.

(b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place. (Prior code 2.04.030; Ord. 1288, 2008; Ord. 1307, 2009)

Sec 2-1- 70. Alien Registration Lists

(a) At any time registration is permitted any qualified person holding a permanent alien registration card may register to vote at the office of the Town Clerk. Identification must be provided at registration.

(b) Any person who desires to withdraw or cancel his or her own registration may do so by filing with the Town Clerk a self affirmation of withdrawal of registration, and the self affirmation shall be used as the record of evidence to cancel the elector's registration record.

(c) Opportunity will be provided to registering persons of confidentiality pursuant to 24-72-204(3.5)(b)(11) and (IV), C.R.S. at time of registration and changes to that registration may be made during normal hours of the office of the Town Clerk. The participant's address, county and voting precinct is confidential and masked from any public record.

(d) The Town Clerk shall cancel the registration of any elector who is deceased when the Town Clerk receives written notice of the fact.

(e) Any elector whose election communication is returned by the United States Postal Service as undeliverable at the elector's current registration address, as found in the records of the Town Clerk, shall be moved to the "Inactive" alien registration list.

(f) Any registered elector whose registration record has been marked "Inactive" shall be eligible to vote in any Town election where registration is required and the elector meets all other requirements.

(g) Any "Inactive" elector shall be deemed "Active" if:

(1) The elector updates registration information with the Town Clerk; or

(2) The elector votes in any Town of Telluride election; or

(3) The elector signs a Town of Telluride initiative, referendum or nomination petition; or

(4) The elector applies for an absentee/mail-in ballot for any Town election, regardless of whether or not the ballot is returned.

(h) The Town Clerk shall cancel the registration of any elector upon notification by the elector or the San Miguel County Clerk and Recorder that the elector has become a citizen of the United States.

(i) It shall be the duty of the Town Clerk to review alien registration lists no later than ninety (90) days after each regular election. The Town Clerk shall contact, in writing, at the mailing address of record, all persons who did not vote in the regular election and confirm that they currently reside within the Town limits and wish to remain active registered voters.

Should any person respond in the positive, s/he shall remain on the active registration list. Should any person respond in the negative, that

registration shall be cancelled. If the Town Clerk receives no response to the confirmation card and the elector has been designated "Inactive" for two regular elections since the confirmation card was mailed, the Town Clerk shall cancel the registration record of the elector. (Prior code 2.04.050; Ord 1288, 2008; Ord. 1307, 2009)

Sec. 2-1-80 Watchers

(a) Watchers, certified by the Designated Election Official prior to election day, may be present at any location where a step of the election is being conducted. Each registered issue committee and each candidate, including write-in candidates, on the ballot shall be entitled to have no more than one (1) watcher at any time at each location.

(b) Each candidate and his or her watcher may be present in the room when a recount is conducted. During the recount, the candidate and watcher may not interfere with the recount process. (Prior code 2.04.060)

(c) Media Observers may be present to witness early voting, election day voting and the processing and counting of provisional, mail and mail-in ballots.

Media Observer shall mean an observer with valid and current media credentials from the media who shall adhere to the formal document "Guidelines for Members of the Media who Observe Election Counts and Recounts," dated June 2004, as may be amended. (Prior Code 2.04.060; Ord. 1307, 2009)

Sec. 2-1- 90. Nonpartisan issue petitions and nominating petitions.

(a) Petitions - General:

(1) No petitioner's committee affidavit shall be accepted which lists proponents other than those authorized by the Telluride Home Rule Charter.

(2) When petitions are received at the office of the Town Clerk they shall be date stamped.

(3) Each section shall be checked for evidence of disassembly. If it appears that the section was disassembled, all entries in the section shall be rejected.

(b) Circulator's Affidavit

(1) The circulators affidavit shall be checked for each entry. If the affidavit is not attached and complete, all entries in the section shall be rejected.

(2) The notary clause at the end of the petition affidavit shall be checked for each entry. If any information is missing, or if the date on the notary clause is not the same date as the circulator signed the affidavit, all entries in the section shall be rejected.

(c) Checking individual signatures

(1) Each individual entry shall be checked against the current voter registration list to assure that the elector was an eligible elector in the political subdivision at the time the petition was signed.

(2) If the information on the current voter registration list does not match the information on the entry, the elector's voter registration history shall be checked to determine if the information on the entry matches the voter registration list at the time the entry was signed.

(3) Name of the eligible elector. To be accepted, the name on the entry must be in a form similar to that found on the voter registration record. Signatures which are common variants of the name found on the voter record shall be counted. If the signer of the petition is not found on the voter registration list the entry shall be rejected.

(4) Middle initial and additional terms.

a. If the middle initial or middle name is not part of either the signature or the voter record but is included on the other document, if the first and last name are the same on both documents, the entry shall be accepted.

b. If the middle initial or middle name on the signature line is different than the middle initial or middle name on the voter record, the entry shall be rejected.

c. If an indicator such as Jr., Sr., or II is present or omitted from the petition or the voter record, the entry shall be accepted. If two (2) persons with the same name reside at the same address as found on the master voter list, the entry shall be rejected, unless the identity of the signer can be conclusively determined.

(5) Address of eligible elector.

a. If the address written on the line does not match the address on the voter record or on the voter history for the date when the signature was taken, the entry shall be rejected.

b. If the address on the petition either includes or omits a letter or number identifying an apartment or the directional location of a street, such as "E" for east, "SW" for southwest, etc., the entry shall be accepted.

c. If the signer gave a post office box for the address, the entry shall be rejected.

(6) Incomplete information. If the line on the petition is incomplete, with at least one (1) piece of information omitted, the entry shall be rejected.

(7) Date of signing.

a. If a signature is placed on the petition prior to the final approval of the petition format by the Designated Election Official, the entry shall be rejected.

b. If the signer was not an eligible elector in the political subdivision at the time of signing, the entry shall be rejected.

c. If a signature is placed on the petition after the date on the circulator's affidavit, the entry shall be rejected.

(8) Illegible signature. If the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.

(9) Duplicate signature. If the elector had previously signed the same petition, the first valid entry shall be counted and all other entries shall be rejected.

(10) Where an elector may sign more than one (1) petition, the first signatures filed up to the maximum allowed shall be the ones that are counted. (Prior code 2.04.070)

(11) Final Tally. After all of the sections have been checked, the Town Clerk shall issue a statement of sufficiency or insufficiency. (Prior Code 2.04.070; Ord. 1307, 2009)

Sec. 2-1-100 Reserved

Sec. 2-1-110 Political Signs

Political signs, banners or posters supporting or opposing candidates, ballot issues or ballot questions are not allowed in or on Town of Telluride public rights of ways, public buildings or air space and, if so placed, will be confiscated by the Town. However, political signs and posters are allowed on Town of Telluride kiosks. (Ord. 1307, 2009)

Sec 2-1-120 Town Clerk Rules

The Town Clerk is authorized to promulgate, publish and distribute such rules as the Town Clerk finds necessary for the proper administration and enforcement of the election laws.

Proposed rules shall be published to the Town of Telluride web site with a 10 day comment period before adoption by the Town Clerk. Notice of adoption shall be published to the Town of Telluride web site. (Ord. 1307, 2009)

Sec 2-1-130 Town Clerk – Challenge

The Town Clerk is hereby authorized to challenge any person intending to vote who the Town Clerk believes is not an eligible elector. (Ord. 1307, 2009)

ARTICLE 2

Officers and Employees

Sec. 2-2-10. Town Council subcommittees.

(a) Executive session. Subcommittees of the Town Council which are appointed to review and consider personnel matters relating to and including the hiring, supervision, evaluation or firing of the Municipal Judge, Town Manager and Town Attorney, are hereby authorized to hold executive sessions solely for such purposes.

(b) Procedure. All regular, special and emergency meetings of a Town Council subcommittee considering a personnel matter shall be open to the public, who shall have a reasonable opportunity to be heard, except that at any meeting of such subcommittee, the meeting may be recessed by a motion and majority vote of the subcommittee members present in order to hold an executive session for such items as set forth in the motion. The session shall thereupon be closed to the public for the purposes of considering personnel matters, including and limited solely to the hiring, supervision, evaluation and firing of the Municipal Judge, Town Manager and Town Attorney.

(c) Notice. Town Council subcommittee meetings shall be preceded by public notice at least three (3) days in advance of the meeting, which notice shall contain an agenda of items to be considered. (Prior code 2.25.010, 2.25.020, 2.25.030)

ARTICLE 3

Municipal Court

Division 1
General Provisions

Sec. 2-3-10. Applicability.

This Article applies to any proceeding or prosecution which may result in a fine or imprisonment for an alleged violation of any provision of this Code. (Prior code 1.16.010)

Sec. 2-3-20. Creation of Municipal Court.

(a) In accordance with the Home Rule Charter, the Municipal Court is hereby established as a qualified court of record under the laws of the State, in order to make appeals from the Municipal Court subject to the provisions of Section 13-10-116(2), C.R.S., pertaining to review of the case on the record on appeal.

(b) The Municipal Court shall make and preserve a verbatim record of all proceedings and evidence at trials by either electronic devices or stenographic means.

(c) The Municipal Judge and Deputy Municipal Judges shall be required, in order to qualify for such offices, to be admitted to and currently licensed in the practice of law in Colorado. (Prior code 1.16.065; Ord. 1288 §1, 2008)

Sec. 2-3-30. Jurisdiction.

(a) Original jurisdiction. The Municipal Court shall have original jurisdiction to hear and try all alleged violations of any provisions of this Code and ordinances of the Town, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed in this Code or by ordinance. The Municipal Court shall also have all powers necessary to enjoin, restrain

and abate all public nuisances existing within the Town.

(b) Concurrent jurisdiction. This Code does not preempt any statute of the State, nor does it preclude prosecution for any conduct constituting a violation of any state statute. When the same conduct is prohibited by both state law and this Code, the alleged offender may be prosecuted in either the appropriate court designated under state law or the Municipal Court. (Prior code 1.16.040, 1.16.060; Ord. 1288 §1, 2008)

Sec. 2-3-40. Rules of procedure.

In addition to other powers, the Municipal Judge shall have full power and authority to make and adopt rules and regulations for conducting the business of the Municipal Court, consistent with the Municipal Court Rules of Procedure promulgated by the Colorado Supreme Court, and with Sections 13-10-111 through 13-10-125, C.R.S. The presiding Municipal Judge may issue local rules of procedure consistent with the provisions mentioned in this Section. (Prior code 1.16.080; Ord. 1288 §1, 2008)

Sec. 2-3-50. Mens rea and strict liability.

Whenever no specific culpable mental state is set forth in any provision which prohibits any conduct, the conduct is unlawful or strict liability applies regardless of the defendant's mental state. (Prior code 1.16.020)

Sec. 2-3-60. Area of application.

Unless a section or subsection provides explicitly to the contrary, action may be taken under this Code against a person for any conduct taking place within, or partly within, the Town. To the maximum extent permissible under the law and Constitution of the State, this Code applies to conduct which, although it takes place outside the Town's limits, has undesirable effects which are promptly perceived within the Town. (Prior code 1.16.030)

Sec. 2-3-70. Criminal Code provisions adopted.

The following parts of the state Criminal Code are adopted by reference and apply to criminal proceedings under this Code to the full extent that they can be transferred from state to municipal setting:

(1) When prosecution is barred by former proceedings: Sections 18-1-301 through 18-1-304, C.R.S.

(2) The rights of criminal defendants, including:

a. The charges to be proved beyond a reasonable doubt. Section 18-1-402, C.R.S.;

b. Speedy trial. Section 18-1-405, C.R.S.;

c. Right to a jury trial. In all criminal prosecutions under this Code, the defendant shall have the right to demand a trial before a jury of not less than three (3) and not more than six (6) persons. For the rules regarding the defendant's written demand for a jury trial and the fees for such a demand, refer to the Colorado Municipal Court Rules of Procedure, especially Rule 223, and to Section 16-10-109, C.R.S.;

d. Affirmative defenses. Section 18-1-407, C.R.S.;

e. The rules concerning prosecution of multiple counts for the same act. Section 18-1-408, C.R.S. as amended; and

f. Post-conviction remedies. Section 18-1-410, C.R.S.

(3) The principles of criminal culpability. Sections 18-1-501 through 18-1-505, C.R.S.

(4) The parties to offenses and accountability for the behavior of others. This comprises complicity, aiding and abetting, accessory to crime and criminal liability of corporations and their agents. Sections 18-1-601 through 18-1-607 and 18-8-105, C.R.S.

(5) The possible justifications for criminal conduct and exemptions from criminal responsibility. These include duty, choice of evils, self-defense, defense of premises or property, duress and entrapment. Sections 18-1-701 through 18-1-710, C.R.S.

(6) Possible nonresponsibility due to insufficient age, insanity, impaired mental condition or intoxication (not self-induced). Sections 18-1-801 through 18-1-805, C.R.S.

(7) Inchoate offenses and their respective defenses. Sections 18-2-101 through 18-2-401, C.R.S. Inchoate offenses include:

a. Attempts;

b. Criminal conspiracy; and

c. Criminal solicitation. (Prior code 1.16.070; Ord. 1288 §1, 2008)

Sec. 2-3-80. Limitations of actions.

Unless a different period of limitation is specified in this Code, no person shall be prosecuted, tried, sued, found liable or punished for any conduct under this Code unless the action is instituted within six (6) months of the date of the alleged violation. However, the period within which an action must be instituted shall be tolled for:

(1) Any period, not to exceed one (1) year, when the alleged offender is continuously absent from the Town; or

(2) Any period during which an action for the same conduct is pending against the alleged offender, whether or not, in the action, the summons, complaint or judgment is quashed, set aside or reversed on appeal. (Prior code 1.16.090; Ord. 1288 §1, 2008)

Sec. 2-3-90. Presumption of responsibility.

(a) Owner and occupant of premises. Both the owner and the occupant of any premises on which a plainly observable violation of any law takes place shall be deemed prima facie responsible for that violation, and shall be subject to its penalty.

(b) Owner of material. The owner of any material which is kept, placed or left anywhere so as to violate any law shall be deemed prima facie responsible for that violation, and is subject to its penalty.

(c) Responsibility nonexclusive. The presumptive responsibility of persons under Subsections (a) and (b) above does not relieve any other person of actual responsibility for any violation. (Prior code 1.16.100)

Sec. 2-3-100. Assessment of costs.

The Municipal Judge is empowered in his or her discretion to assess costs against any defendant who pleads guilty, liable (for noncriminal violations) or nolo contendere, who enters into a plea agreement or who, after trial, is found guilty of violation of this Code or a Town ordinance. The Municipal Judge also is empowered in his or her discretion to assess costs against a defendant who fails to appear for any arraignment or for a trial requested by the defendant. (Prior code 1.16.140; Ord. 1288 §1, 2008)

Division 2
Procedures

Sec. 2-3-210. Failure to pay fine.

When the Municipal Court enters a judgment, or issues an order that obligates defendant to pay a monetary amount and the Municipal Court makes findings that the defendant willfully refused to pay or failed to make sufficient bona fide legal efforts to acquire the resources to pay, the defendant may be imprisoned until the fine is completely paid. Each hour of confinement shall count as the payment of one dollar ($1.00) of the fine. (Prior code 1.16.120; Supp. 6)

Sec. 2-3-220. Community service.

The Municipal Court may allow any person who has admitted violating, or who is found to have violated, any provision of this Code for which a fine is imposed, to perform community service work for the Town in exchange for all or a portion of such fine upon a determination that such person cannot pay all or a portion of the fine without undue hardship. The foregoing notwithstanding, if any person who has admitted violating, or who is found to have violated Sec. 7-6-140 or Sec. 7-6-350(b) community service shall be mandatory and not in lieu of payment of the fine imposed. (Prior code 1.16.150; Ord. 1339, 2010)

Sec. 2-3-230. Applicability.

This Article applies to all noncriminal violations of this Code, as defined herein. Notwithstanding the foregoing, when a violation which is not punishable by imprisonment is consolidated for trial with a violation which is punishable by imprisonment, then the Colorado Municipal Court Rules of Procedure shall apply. (Prior code 1.18.010)

Sec. 2-3-240. Purpose and construction.

These rules are intended to provide for the just determination of all noncriminal municipal ordinance violations. They shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. (Prior code 1.18.020)

Sec. 2-3-250. Definitions.

As used in this Chapter, the following definitions shall apply:

Charging document means the document commencing or initiating the noncriminal violation matter, whether denoted as a complaint, summons and complaint, citation, penalty assessment notice or other document charging the person with the commission of a noncriminal violation.

Defendant means any person charged with the commission of a traffic infraction or any other violation of this Code which is not punishable by imprisonment.

Judgment means the admission of guilt or liability for any noncriminal violation, the entry of judgment of guilt or liability, or the entry of default judgment as set forth in this Article against any person for the commission of a noncriminal violation.

Noncriminal violation means any violation of this Code which is not punishable by imprisonment.

Penalty means that fine imposed pursuant to Section 1-4-10 of this Code or any other penalty for a violation of this Code which does not include the threat or possibility of imprisonment. (Prior code 1.18.030)

Sec. 2-3-260. Commencement of action; charging document; amendment; service.

(a) Commencement. An action for a noncriminal violation of this Code shall be commenced by the tender or service of a charging document upon the defendant, or by conspicuously attaching a parking traffic infraction charging document to the subject vehicle, and by filing the charging document with the Municipal Court.

(b) Contents of charging document; amendment; service. The information which shall be included in the charging document, when a charging document may be amended and how service of the charging document shall be effected shall be as provided in the Colorado Municipal Court Rules of Procedure, relating to contents, amendment and service of a complaint or a summons and complaint. (Prior code 1.18.040)

Sec. 2-3-270. Payment of penalty assessment before appearance.

(a) The Municipal Court Clerk shall accept payment of a penalty assessment for a noncriminal violation without an appearance before the Municipal Court:

(1) If payment is made at any time prior to the date set for first appearance; and

(2) If payment is allowable by and in accordance with a penalty assessment schedule in this Code.

(b) At the time of payment, the defendant shall sign a waiver of rights and acknowledgment of guilt or liability upon a form approved by the Municipal Court.

(c) This procedure shall constitute an entry in satisfaction of judgment. (Prior code 1.18.050)

Sec. 2-3-280. First appearance.

(a) If the defendant has not previously acknowledged guilt or liability and satisfied the judgment, the defendant shall appear before the Municipal Court at the time scheduled for first appearance.

(b) The defendant may appear in person or by counsel who shall enter an appearance in the case; provided, however, that if an admission of guilt or liability is entered, the Municipal Court may require the presence of the defendant for the assessment of the penalty.

(c) If the defendant appears in person, he or she shall be advised of the following:

(1) The nature of the violation alleged in the charging document;

(2) The penalty, fees and costs that may be assessed, and the penalty points that may be assessed against the defendant's driver's license, if applicable.

(3) The consequences of failure to appear at any subsequent hearing, including with respect to violations of Chapter 8, Article 1, "Model Traffic Code" of this Code, entry of default judgment against the defendant and reporting the judgment to the State Motor Vehicle Division which may assess points against the defendant's driver's license and may deny an application for a driver's license or for renewal of a driver's license until such judgment is satisfied.

(4) The right to be represented by an attorney at the defendant's own expense.

(5) The right to deny the allegations and to have a final hearing before the Municipal Court.

(6) The right to remain silent because any statement made by the defendant may be used against him or her.

(7) That guilt or liability for the offense must be proven beyond a reasonable doubt.

(8) The right to testify, subpoena witnesses, present evidence in accordance with the Colorado Rules of Evidence, and cross-examine any witness.

(9) That any answer must be voluntary and not the result of undue coercion on the part of any person; and

(10) That an admission of guilt or liability constitutes a waiver of the foregoing rights and any right to appeal.

(d) The defendant personally or by counsel shall answer the allegations in the charging document either by admitting guilt or liability or by denying the allegations.

(e) If the defendant admits guilt or liability, the Municipal Court shall enter judgment and assess the appropriate penalty and the fees and costs. (Prior code 1.18.060)

Sec. 2-3-290. Jury trial.

A defendant charged solely with noncriminal violations shall have no right to trial by jury, and trial shall be to the Municipal Court. In the event that the defendant is charged with more than one (1) violation arising out of the same incident and at least one (1) of the charged violations is a criminal violation, the defendant shall have the right to demand a trial by jury as set forth in Rule 223 of the Colorado Municipal Court Rules of Procedure, on all violations, which shall be consolidated for purposes of trial. (Prior code 1.18.070)

Sec. 2-3-300. Right to counsel.

A defendant charged solely with noncriminal violations shall have the right to retain counsel but shall have no right to appointed counsel. (Prior code 1.18.080)

Sec. 2-3-310. Speedy trial.

If the final hearing of a defendant is delayed more than ninety (90) days after the first hearing of the defendant, or unless the delay is occasioned by the action or request of the defendant, the Municipal Court shall dismiss with prejudice the charges alleging a noncriminal violation; except that if, on the day of a final hearing set within the last ten (10) days of the above time limit, a necessity for a continuance arises which the Municipal Court in the exercise of sound judicial discretion determines would warrant an additional delay, then one (1) continuance, not exceeding thirty (30) days, may be allowed, after which the

dismissal shall be entered as above provided if trial is not held within the additional time allowed. (Prior to 1.18.090)

Sec. 2-3-320. Final hearing.

The final hearing of all noncriminal violations shall be conducted pursuant to the Colorado Rules of Evidence, and the conduct of the hearing shall otherwise be in the form applicable to criminal municipal code violations. (Prior code 1.18.100)

Sec. 2-3-330. Judgment after final hearing.

(a) The burden of proof shall be upon the People, and the Municipal Court shall enter judgment in favor of the defendant unless the People prove the guilt or liability of the defendant beyond a reasonable doubt.

(b) If the defendant admits guilt or liability or is found guilty or liable, the Municipal Court shall assess an appropriate penalty subject to any other applicable provision of this Code and such additional costs, fees and surcharges as are otherwise generally imposed under this Code.

(c) The judgment shall be satisfied upon payment to the Municipal Court Clerk of the total amount assessed.

(d) If the defendant fails to satisfy the judgment upon an admission or finding of guilt or liability, or within the time of a reasonable extension granted upon a showing of good cause by and upon the application of the defendant, then such nonpayment in the full amount of the penalty, fees, costs and surcharges, if applicable, shall be treated as a default. A default for failure to satisfy a judgment upon an admission or finding of guilt or liability for a violation of Chapter 8, Article 1, "Model Traffic Code," of this Code shall be certified to the State Motor Vehicle Division for enforcement action. (Prior code 1.18.110)

Sec. 2-3-340. Default.

(a) If the defendant fails to appear for a first hearing on the date set forth in the charging document, or at any hearing, including a final hearing, on a noncriminal violation, the Municipal Court shall enter judgment against the defendant.

(b) The amount of the judgment shall be the penalty assessment or other appropriate penalty that would be assessed upon an acknowledgment or finding of guilt or liability, and such additional costs, fees and surcharges as are otherwise generally imposed under this Code.

(c) The defendant may satisfy any judgment entered under this rule by paying the Municipal Court Clerk.

(d) No warrant shall be issued for the arrest of any defendant charged with a noncriminal violation who fails to appear at any hearing on such violation or who fails to satisfy a default judgment. (Prior code 1.18.120)

Sec. 2-3-350. Post-hearing motions.

(a) There shall be no post-hearing motions available other than a motion to set aside a default judgment.

(b) For good cause shown, the Municipal Court may set aside a default judgment entered in accordance with this Article. *Good cause* shall mean:

(1) Mistake, inadvertence, surprise or excusable neglect;

(2) The penalty assessment was paid prior to entry of default judgment;

(3) The judgment has been satisfied, released or discharged; or

(4) Any other reason justifying relief from the operation of the default judgment.

(c) A motion to set aside a default judgment shall be made within six (6) months after the judgment was entered. (Prior code 1.18.130)

Sec. 2-3-360. Appeal.

Appeal from the Municipal Court shall be as provided by the Colorado Municipal Court Rules of Procedure. (Prior code 1.18.140)

Sec. 2-3-370. Discovery, subpoena, disability of Municipal Judge, time and service and filing of papers.

Discovery, subpoena, joinder of offenses and defendants, disability of the Municipal Judge, proof of official record, time and the service and filing of papers shall be as provided by the Colorado Municipal Court Rules of Procedure, as amended. (Prior code 1.18.150)

ARTICLE 4

Ethics Code

Sec. 2-4-10. Statement of purpose.

(a) The Town Council recognizes that, when citizens hold public office or obtain employment with the Town, conflicts may arise between their public duty and their personal and/or financial interests. This Ethics Code:

(1) Sets forth standards and guidelines of ethical conduct for all Town officials and employees which are intended to promote the avoidance of conflicts of interest and the appearance of impropriety by Town officials and employees;

(2) Sets rules for ethical conduct by all Town officials and employees, including disclosure by Town officials and employees of personal or financial interests which may affect the Town's business;

(3) Identifies actions incompatible with the Town's best interests;

(4) Establishes an Ethics Commission; and

(5) Provides for sanctions, remedies and penalties for violation of the provisions of this Article.

(b) This Ethics Code and the conduct governed herein are declared to be a matter of local interest and concern. Any conflict with or inconsistency between this Code and the provisions of state law concerning standards of conduct and contracts in Article 18 of Title 24, C.R.S., is intended. This Code shall supersede such law and the common law in all respects as to the subject matter of this Code, to the extent legally permitted. (Prior code 4.18.010)

Sec. 2-4-20. Definitions.

The following definitions shall apply to all sections of this Ethics Code except where explicitly provided to the contrary or when such application would be manifestly inconsistent with the plain intent of the Town Council:

Business means any corporation, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

Compensation means any money, thing of value or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself, herself or another.

Conflict of interest means a situation in which a Town official or employee (or anyone with whom the Town official or employee has a close personal or close business relationship) has a Personal or Financial interest in a matter involving the performance of official duties by a Town official or employee. A Town official or employee shall be deemed to have a conflict of interest if he or she (or anyone with whom the Town official or employee has a close personal or business relationship) would be adversely affected by or benefit from the performance of the official duty in a manner substantially different from the public generally. A conflict of interest shall only arise when a Personal interest or Financial interest is the origin of either: a Quasi-judicial matter; or a matter where the Town official or employee (or anyone with whom the Town official has a close personal or business relationship) would be adversely affected by or benefit from the performance of the official duty. A conflict of interest shall not arise as to any action or recommendation as to legislation of general applicability in which a Town official or employee shares the same personal or financial interest as the entire membership of a common class of citizens or residents of the Town, or owners of property in the Town, including by way of example only and not of limitation, the following classes: water, sewer and trash users; owners of property subject to general ad valorem taxes or property taxes or

assessments; owners or tenants of property which is included in a residential-type zone district; and business licensees.

An *economic benefit tantamount to a gift of substantial value* includes a loan at a rate of interest substantially lower than the commercial rate then currently prevailing for similar loans, and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services. The following shall not be considered gifts of substantial value or economic benefits tantamount to a gift of substantial value for purposes of this Article:

a. Campaign contribution reported, as required;

b. An occasional nonmonetary gift, insignificant in value;

c. A nonmonetary award publicly presented by a nonprofit organization in recognition of public service;

d. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public official or employee is scheduled to participate;

e. Reimbursement for or acceptance of an opportunity to participate in a social function, meeting or event on Town property, which is not extraordinary when viewed in light of the position held by such person; or

f. Payment of salary from employment.

Employee means any temporary or permanent salaried employee of the Town, including those independent contractors who are subject to executive or legal privilege, and excluding the Municipal Judge. While Town employees are subject to the requirements stated herein, prosecution for violations of this Chapter shall be subject to the Town's personnel policies.

Ex parte communication is a written or oral communication to a Town official which takes place without notice to, or opportunity to lawfully participate by, members of the entire governing body or any subcommittee thereof, and at a time and place other than a public hearing, public meeting or publicly noticed work session.

Financial interest means an interest held by an individual or by the individual's spouse or dependent children which is:

a. An ownership interest in a business;

b. A creditor interest in a business;

c. An employment relationship or a prospective employment relationship for which negotiations have begun;

d. An ownership interest in real or personal property;

e. A loan or any other debtor interest;

f. A directorship or officership in a business;

g. A close and continuing business relationship involving regular purchase or sale of goods, services or property not generally available to the public; or

h. Ownership, or a leasehold interest in excess of three (3) years, of property within seventy five (75) feet of or which is contiguous, adjacent or diagonally adjoining to, property which is the subject of an application before the governing body.

Such distance shall be measured by excluding any intervening public rights-of-way or waterways.

Governing body means the Town Council, or any temporary or permanent Town board or commission, as the case may require.

Interested party means the applicant in a quasi-judicial matter; any person residing on or owning property within seventy five (75) feet of the property which is the subject of such matter or who resides on or owns property which is contiguous, adjacent or diagonally adjoining the subject property; any person who would be adversely affected by the performance of an official Town duty in a manner different from the public generally; or any person who has a financial interest in the performance of an official Town duty pending before the Town. Distance shall be measured without regard to public rights-of-way or waterways.

Person means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited partnership, association or any other legal entity.

Personal interest means close blood, family or marital relationship, or any other close personal relationship which imparts the appearance, to a reasonable person, of undue partiality or undue influence, or residency within seventy five (75) feet of property which is contiguous, adjacent or diagonally adjoining to property which is the subject of an application before the governing body. Such distance shall be measured by excluding any intervening public rights-of-way or waterways.

Quasi-judicial matters occur when the following factors exist: a) state or local law requires advance public notice of a public hearing before the governing body at which parties and interested citizens have an opportunity to be heard, present evidence and cross-examine others; and b) a state or local law that requires the governing body take official action by determining or applying competent facts of the case, as presented in the hearing, to certain criteria established by law. The following are identified, by way of example only, as quasi-judicial matters: development applications including site-specific rezonings, subdivision plats, planned unit developments, certificates of appropriateness (but excluding general rezonings or Land Use Code text amendments), appeals to or from the Planning and Zoning Commission or Historical and Architectural Review Commission, liquor license applications, appeals to the Board of Adjustment/Appeals, and certain termination and disciplinary matters.

Town means the Town of Telluride, County of San Miguel, State of Colorado; and the term includes the Town Council or its boards and commissions as the case may require.

Town official means any individual elected to any municipal office in the Town, or any individual appointed to serve on any board or commission of the Town. (Prior code 4.18.020; Ord. 1246 §1, 2006; Ord. 1288 §1, 2008; Ord. 1431, 2015)

Sec. 2-4-30. General guidelines.

(a) Proper democratic government requires that Town officials and employees be independent, impartial and responsible to the people of the Town; that decisions, policies and laws be made through proper government channels; that public office or employment not be used for personal gain; and that the public have confidence in the integrity of its government.

(b) Town officials and employees are agents of public purpose, who should hold office and employment as a public trust for the benefit of the people.

(c) Town officials and employees are bound to uphold the Constitution of the United States, the Constitution of the State of Colorado and the Home Rule Charter of the Town, to carry out impartially the laws of the Nation, State and Town, and to observe the highest standards of integrity and fairness. They must discharge the duties of office and employment faithfully, regardless of personal considerations. Their conduct must be above reproach, and they should avoid even the appearance of conflict of interest or improper influence in the performance of official duties.

(d) All Town officials and employees should be aware of and responsive to objectives expressed by the electorate, directly through the election process or through the Town Council, and to the programs developed to attain those objectives. They should not breach the law or ask others to do so. They should not exceed their authority and should work in cooperation with other Town officials, employees and the public unless prohibited by law, confidentiality or the provisions of this Code.

(e) All Town officials and employees should be guided by the following general directives in dealing with potential conflicts of interest and ethical conduct in public office or employment:

(1) Town officials and employees should attempt to minimize and avoid any conflict of interest and the appearance of any conflict of interest. To this end, a Town official or employee should be fully aware of the extent of his or her personal or financial interest and, where possible, should avoid, dispose of or minimize such interest which could result in conflicts of interest.

(2) Town officials and employees should avoid the receipt of any compensation, gift, economic benefit tantamount to a gift of substantial value, payment of expenses, reward, gratuity or any item of value tendered by a person or on behalf of a person who is an interested party in some particular matter to be proposed or which is pending before the governing body.

(3) Town officials and employees should attempt to avoid incompatible employment and shall not engage in, solicit, negotiate for or promise to accept private employment, render services for private interests or conduct a private business when such employment, service or business creates a conflict of interest or impairs the proper discharge of his or her official duties.

(4) A Town official or employee should disclose any conflict of interest of any other official or employee when he or she has a good faith belief that such a conflict may or does exist. The disclosure should be made to the chairperson of the board or commission, or to the Town Manager, as appropriate. In addition, whenever any Town official participates in any quasi-judicial matter as defined in Section 2-4-20 above and the Town official has a good faith belief that any member of the board or commission participating in the quasi-judicial proceeding may have or has a bias as defined in Section 2-5-40 of this Chapter, such Town official should disclose such bias to the chairperson of the board or commission, as the case may be. (Prior code 4.18.030; Ord. 1246 §1, 2006; Ord. 1288 §1, 2008)

Sec. 2-4-40. Disclosure guidelines.

Town officials and employees are encouraged to disclose the possibility of any potential or actual conflict of interest at the earliest possible time, so as to facilitate attendance of alternates

and the reassignment of responsibilities as appropriate. In determining whether a potential or actual conflict of interest exists or whether disclosure of such interest is required, Town officials are encouraged to seek the advice of the Town Attorney. (Prior code 4.18.050; Ord. 1246 §1, 2006)

Sec. 2-4-50. Rules for ethical conduct.

(a) Proof by clear and convincing evidence of any act prohibited by Sections 2-4-50 through 2-4-130 of this Article is proof that the actor has breached his or her fiduciary duty to the Town and the public trust.

(b) A Town official or employee shall not:

(1) Disclose or use confidential information acquired in the course of his or her official duties in order to further his or her personal financial interests;

(2) Solicit or accept a present or future gift of substantial value or an economic benefit tantamount to a gift of substantial value:

a. Which would tend improperly to influence a reasonable person in his or her position to depart from the faithful and impartial discharge of his or her public duties, or

b. Which he or she knows or which a reasonable person in his or her position should know under the circumstances is primarily for the purpose of rewarding him or her for the performance of an official Town duty he or she has taken;

(3) Engage in a substantial financial transaction for his or her private business purposes with a person whom he or she inspects or supervises in the course of his or her official duties;

(4) Perform an official act directly or substantially affecting to its economic benefit a business or other undertaking in which he or she either has a substantial financial interest or is engaged as counsel, consultant, representative or agent;

(5) Assist any person for a fee (other than that charged for that service by the Town) or other compensation in obtaining any contract, claim, license, permit, permission, approval or other economic benefit from the Town, (except as permitted pursuant to Section 2-4-100); provided that a Town official may assist any person for a fee in processing a claim or obtaining a license, permit, permission or approval with and from any Town administrator or employee (or board or commission other than one [1] of which the official is a member) which relates to matters other than the official's duties as a board or commission member, and which is granted or issued in the ordinary course of business;

(6) Accept a fee or any other compensation, except his or her official compensation as provided by Charter, ordinance or contract of the Town, for promoting or opposing passage of legislation; or

(7) Appear on behalf of any private person, business or entity before the governing body of which an official is a member or to which an employee is regularly assigned, except as provided by Section 2-4-100.

(c) A Town official, employee or applicant for appointment to Town office or for employment shall not knowingly misrepresent or willfully fail to disclose any conflict of interest or any personal or financial interest, when such disclosure is required by this Article or as a condition of appointment to a Town office or of employment. (Prior code 4.18.060; Ord. 1246 §1, 2006; Ord. 1431, 2015)

Sec. 2-4-60. Declaration required.

(a) In the event that a Town official has an actual or potential conflict of interest in any matter proposed or pending before the governing body of which he or she is a member, he or she shall declare such interest in a public meeting to the governing body of which he or she is a member. In the event that any Town official could be reasonably perceived as having an actual or potential conflict of interest, he or she shall disclose such conflict of interest to the governing body of which he or she is a member.

(b) In deciding whether or not a Town official or any employee has a conflict of interest, a Town official or employee and the governing body shall consider, among other things, the following:

(1) Whether the potential conflict of interest impedes independence of judgment;

(2) The effect of the Town official's participation on public confidence in the integrity of the governing body and Town government;

(3) Whether the Town official's participation is likely to have any significant effect on the ultimate disposition of the matter;

(4) The official's fiduciary obligations to the Town; and

(5) The purposes of this Article.

(c) In the event more than one (1) member of the governing body declares or is challenged for a potential conflict of interest and such members refuse to disqualify themselves, the other members of the governing body shall proceed to determine the existence of a conflict of interest for each member in the order of disclosure and/or challenge. If the governing body determines there is no conflict of interest for a particular member, he or she may participate in the governing body's subsequent determination of conflicts of interest as to other members.

(d) The determination of the existence of a conflict of interest shall be made by affirmative vote of a majority of the members of the governing body present and voting. The decision of the governing body that a member does have a conflict of interest shall be final, subject only to review by the Town Council.

(e) Notwithstanding the determination by a governing body that a Town official does not have a conflict of interest, a Town official's declaration of a conflict of interest shall be final and shall result in disqualification of the official from voting unless authorized pursuant to Subsection 2-4-70(c) below. A Town official, however, should not abstain from voting based on a potential conflict of interest solely to avoid the official's duty to participate in the action of the governing body.

(f) Any Town official who is a volunteer director or an officer of any not-for-profit corporation shall have a duty to disclose such affiliation prior to taking any action on any proposed or pending matter affecting the not-for-profit corporation before the governing body of which he or she is a member, provided that such affiliation shall not, alone, be considered a conflict of interest. (Prior code 4.18.070; Ord. 1246 §1, 2006; Ord. 1431, 2015)

Sec. 2-4-70. Disqualification from voting and influencing other Town officials or employees.

(a) Upon declaration by a Town official of a conflict of interest with respect to any matter, or upon determination by the governing body of the existence of such a conflict of interest on a matter pending before a governing body, the Town official shall be disqualified from acting or voting on

the matter or any related business. In addition, the disqualified official shall refrain from attempting to influence the decisions of other members of the governing body in voting on the matter, except as may be authorized pursuant to Section 2-4-100 below. A Town official shall also be prohibited from voting on any motions directly arising out of the discussions on the matter.

(b) After declaration or determination of a conflict of interest, the Town official shall leave the hearing or meeting room and shall refrain from participation in any manner in the deliberations of the governing body on the matter. The governing body shall have the right to ask the disqualified Town official to return solely to provide information which may be deemed valuable to the governing body and which is not reasonably available from another source. If the Town official has a conflict of interest under the subsection (h) provisions in Section 2-4-20 for a financial interest, and/or the definition of *interested party* in Section 2-4-20, he or she may submit written comment to the governing body regarding the matter prior to the scheduled hearing but may not otherwise participate in the hearing. If the Town official asserts the right to participate directly in the hearing, he or she shall first consult with the Town Attorney.

(c) In addition to disqualification as to actions of the governing body to which the individual is a member, a disqualified Town official shall not attempt to influence the decisions of any other Town official, Town employee, or other Town governing body that is considering the same matter or the same Property. A Town official shall leave the hearing or meeting room when such conflicting matter is being raised by any other Town governing body and shall refrain from participation in any manner in the discussions or deliberations of the other governing body on the matter. If the Town official has a conflict of interest under the subsection (h) provisions in Section 2-4-20 for a *financial interest*, and/or the definition of *interested party* in Section 2-4-20, he or she may submit written comment to the governing body regarding the matter prior to the scheduled hearing but may not otherwise participate in the hearing.

(d) The disqualification of a Town official from voting shall not preclude the existence of a quorum, nor result in the loss of a quorum, of any governing body other than the Town Council.

(e) In the event of disqualification of a Town official from voting on a matter, approval of which requires the affirmative vote of a specific number of votes by members of the governing body other than the Town Council, the required number of votes shall automatically be reduced by the number of officials disqualified.

(f) In the event that the disqualification and/or absence of members of a governing body reduces the number of governing body members who may permissibly act on a nonconsent calendar matter to two (2) or less, the Chairperson of the governing body shall either continue the matter to the next available meeting, or refer the matter to the Town Council for action by it. In the event of continuance of a matter pending before a governing body other than the Board of Adjustment/Appeals, the Chairperson shall immediately notify the Town Council through the Town Clerk of the continuance and the reasons for the continuance. (Prior code 4.18.080; Ord. 1246 §1, 2006; Ord. 1431, 2015)

Sec. 2-4-80. Public challenge.

A qualified elector of the Town or an interested party may challenge a Town official's failure to declare a conflict of interest as provided by this Article, or a Town official's failure to disqualify himself or herself in the event of such an interest, by submitting a challenge to the governing body at the time of its meeting, or prior to it, stating the facts in support of the challenge. A qualified elector of the Town or interested party may challenge an employee's failure to declare an interest by submitting a challenge to the Town Manager stating the facts in support of the challenge. The governing body or Town Manager shall, upon receipt of such challenge, immediately address the merits of the challenge prior to taking official

action on the matter or transacting any other related business, in accordance with the procedure set forth in Section 2-4-60 above. (Prior code 4.18.090)

Sec. 2-4-90. Ex parte communications.

(a) A Town official who is a member of a governing body should not engage in or receive any verbal ex parte communication involving the substance or merits of a quasi-judicial matter pending before such governing body, including a work session or public hearing thereon, if such communication is intended to influence the official's decision or conduct in order to obtain favored treatment or special consideration, or to advance personal or financial interests of an interested party.

(b) Notice of the general time, place and content of any verbal ex parte communication to a Town official involving the substance or merits of a quasi-judicial matter pending before the governing body of which the official is a member shall be entered into the record of the proceeding to which it relates by the recipient. The governing body may require the particulars of the ex parte communication to be stated and entered into the record, and may permit cross-examination thereon to determine the existence of bias, prejudgment or prejudice. Any written ex parte communication involving the substance or merits of a quasi-judicial matter shall be announced and entered into the record of the hearing to which it relates by the recipient, regardless of its intended purpose.

(c) Any Town official who has engaged in any such ex parte communication shall be deemed disqualified with respect to any proceeding to which the communication relates unless he or she can affirmatively demonstrate that the communication has not made it manifestly impossible for him or her to act objectively and impartially.

(d) This Section is not intended to otherwise preclude access to Town officials or employees acting in their legislative or administrative capacities. (Prior code 4.18.100; Ord. 1246 §1, 2006)

Sec. 2-4-100. Practice before boards and commissions.

(a) Members of certain boards and commissions are necessarily required to be recruited from certain professions. In a small town such as Telluride, these professionals may need to occasionally practice before such boards or commissions for their professional livelihood. Recognizing that such recruitment could be impaired by the imposition of strict anti-influence rules, the Town Council intends to provide certain exemptions as set forth below.

(b) Members of the Planning and Zoning Commission, Historic and Architectural Review Commission and Board of Adjustment/Appeals who are recruited from the planning, design, architectural or engineering professions shall be permitted to present development applications to such commission or board, as a consultant to or employee of an applicant, provided that:

(1) Full disclosure of the consultant or employee relationship is made to the board or commission;

(2) The affected board or commission does not object to such presentation;

(3) The consultant or employee compensation is not contingent upon the outcome of the presentation or upon board or commission action; and

(4) No more than four (4) separate development applications are presented by any member in any one (1) calendar year, or in any year during the official's term of office. This restriction shall only pertain to development applications classified as Large Scale Activities. (Ord. 1410, 2014; Prior code 4.18.110)

Sec. 2-4-110. Acceptance of tickets and passes.

(a) No Town official or employee shall violate the following rules with respect to the acceptance or purchase of tickets and passes for sport

ing, recreational, musical, film, educational, cultural or similar events and activities:

(1) With respect to major and minor festival events which are authorized pursuant to Section 11-4-60 of this Code, event organizers shall be required to make available, without charge, a predetermined number of tickets or passes to be issued only to members of the Town Council, and those employees identified by the Town Manager for which a need for the tickets or passes has been substantiated. Town Councilpersons receiving and utilizing festival event passes shall report in public session on the events.

(2) With respect to events in which Town facilities or Town funds are used, and for which Paragraph (1) above is not applicable, events organizers are not required to issue tickets or passes without charge; but if they do so, all other provisions of Paragraph (1) shall apply.

(3) Town officials and employees may accept free tickets and passes to events for which no Town facilities or Town funds are used.

(4) Town officials and employees may participate in discount ticket and pass programs made available through the Town.

(5) Any tickets or passes received by Town officials or employees without charge pursuant to this Section shall not be transferred.

(b) Every Town official receiving any events tickets or passes without charge must comply with the statutory reporting requirements of Sections 1-45-108 and 24-6-203, C.R.S. In determining the value for reporting purposes, the total value of tickets or passes for multi-day events shall be used.

(c) Nothing herein shall be construed to waive compliance with the requirements of Section 2-4-50(b)(2) of this Article. (Prior code 4.18.115; Ord. 1288 §1, 2008)

Sec. 2-4-120. Subsequent employment.

A Town official or employee shall not, within six (6) months following termination of his or her office or employment, obtain employment in which he or she takes direct advantage, unavailable to others, of matters with which he or she was directly involved during his or her term of office or employment. These matters may include rules, other than rules of general application, which he or she actively helped to formulate and applications, claims or contested cases in the consideration of which he or she was an active participant. (Prior code 4.18.120)

Sec. 2-4-130. Contracts with the Town.

(a) A Town official or employee shall not hold a substantial financial interest in any business or enterprise which is a party to a contract made by such Town official or employee in his or her official capacity, or by any governing body of which he or she is a member or he or she serves, when such official or employee exercises any substantial discretionary authority in connection with such contract.

(b) Any Town official or employee with a financial interest in a business entity involved in any transaction or contract with the Town shall disclose such an interest and shall abstain from voting and officially acting thereon, in accordance with Sections 2-4-60 and 2-4-70 above. In addition, such official or employee shall not personally attempt to influence other Town officials or employees on the matter, unless authorized pursuant to Section 2-4-100 above.

(c) For purposes of this Section, the term *contract* includes any payment or pecuniary transaction for which a Town official or employee exercises substantial discretionary authority, but does not include:

(1) Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;

(2) Merchandise sold to the highest bidder at public auctions;

(3) Investments or deposits in financial institutions which are in the business of loaning or receiving moneys;

(4) A contract with an interested party if, because of geographic restrictions, the Town could not otherwise reasonably obtain the subject of the contract. It shall be presumed that the Town could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the Town of a contract with an interested party is greater than ten percent (10%) or if the contract is for services that must be performed within a limited time period and no other contractor can provide substantially similar services within that time period.

(d) Every contract made in violation of any of the provisions of this Section shall be voidable at the written request of the Town or any party to the contract, except the Town official or employee interested therein. (Prior code 4.18.130)

Sec. 2-4-140. Confidences to be maintained.

(a) No Town official or employee shall knowingly disclose privileged or confidential information without proper legal authorization from the Town Council, Mayor, Town Manager or Town Attorney. No Town official or employee shall use confidential or privileged information to advance his or her personal or financial interests or to advance the gain of another.

(b) For purposes of this Section, *privileged or confidential information* means matters required by state or federal law or regulation to be kept confidential; attorney-client communications; and other matters which may be discussed in executive session pursuant to Article 4.6 of the Home Rule Charter and applicable state law.

(c) This Section is not intended to impair or limit public access to information that is otherwise publicly available, to limit the prevention or reporting of a crime or unlawful conduct, or to limit disclosure in open meeting prior to final decision or action by the Town. (Prior code 4.18.140)

Sec. 2-4-150. Conflict review prior to appointment.

The Town Manager should thoroughly examine the background of all applicants to serve in a position as a Town official or employee, except applicants to fill a Town Council vacancy, for actual or potential conflicts of interest with the Town, and the appearance thereof, prior to appointment. The Town may require applicants for appointment as a Town official to disclose their personal and financial interests on the application forms. For certain appointments and employment directly related to law enforcement, criminal background checks may be required. (Prior code 4.18.150; Ord. 1288 §1, 2008)

Sec. 2-4-160. Ethics Commission established.

There is hereby established the Town Ethics Commission. (Prior code 4.18.160; Ord. 1288 §1, 2008)

Sec. 2-4-170. Membership.

(a) The Ethics Commission shall be comprised of five (5) regular members and four (4) alternates, each of whom shall be a qualified elector of the Town.

(b) One (1) regular member and one (1) alternate shall be elected from the membership of the Town Council by majority vote of the Town Council. One (1) regular member and one (1) alternate shall be elected by majority vote of, and from the membership of, each of the following Town boards or commissions on an alternating schedule: Planning and Zoning Commission and the Commission for Community Assistance, Arts

and Special Events, to serve during even years; Historic and Architectural Review Commission and the Open Space Commission, to serve during odd years. The regular member elected from the Commission for Community Assistance, Arts and Special Events shall not be the Town Councilperson. Two (2) members and one (1) alternate shall be elected from the public at large by majority vote of the Town Council. (Prior code 4.18.170)

Sec. 2-4-180. Terms of office.

(a) The term of office of each regular and alternate member shall be two (2) years, staggered so that approximately one-half (½) of the terms expire each year, commencing on January 1 of each year, and shall terminate automatically in the event a member resigns or is removed from office with the Town Council or a board or commission of the Town.

(b) The term of office of the Town Clerk shall extend through the term of his or her employment. (Prior code 4.18.180)

Sec. 2-4-190. Meetings.

(a) Three (3) members shall be a quorum for the transaction of business at all regular meetings of the Ethics Commission, but in the absence of a quorum, a lesser number may adjourn any meeting to a later time or date.

(b) The members of the Ethics Commission shall elect from its regular membership a Chairperson and a Vice-Chairperson, whose terms of office shall be one (1) year. The Ethics Commission shall adopt rules for the conduct of its meetings and affairs.

(c) All meetings of the Ethics Commission shall be open to the public. Public notice of all Ethics Commission meetings shall be posted at Town Hall at least seventy-two (72) hours prior to such meetings, except that a majority of the members may consent to waive such notice for the purpose of responding to emergency requests to issue advisory opinions or to investigate an alleged violation of this Article. An emergency meeting shall only be held if a diligent, good faith effort has been made by the Ethics Commission secretary to give actual notice to each member, and at least five (5) members are present at such meeting. (Prior code 4.18.190)

Sec. 2-4-200. Voting.

(a) Each regular member of the Ethics Commission shall have one (1) vote. Upon a regular member's absence or disqualification, the alternate serving for such member shall have one (1) vote.

(b) The Ethics Commission shall take official action only upon a majority vote of members present, except that a recommendation to impose sanctions to initiate enforcement action shall require the affirmative vote of at least four (4) members of the Ethics Commission. (Prior code 4.18.200)

Sec. 2-4-210. Powers and duties.

The powers and duties of the Ethics Commission shall be to:

(1) Issue in its discretion advisory opinions to boards and commissions, the Town Council and Town officials concerning the conduct of Town officials and governing bodies in relation to the provisions of this Article.

(2) Provide interpretation of provisions of this Article.

(3) Investigate in its discretion alleged violations of this Article upon request by the Town Council, affected boards or commissions of the Town, the Town Manager, the Town

Attorney, interested parties or members of the public; and recommend to the Town Council the imposition of sanctions, remedies and/or criminal enforcement or civil action. Complaints which are determined to be frivolous shall be dismissed without further inquiry.

(4) Recommend adoption of appropriate laws, rules and regulations to effectuate the purposes of this Article.

(5) Establish rules for providing reasonable public access to voluntary disclosure statements maintained by the Town Clerk. (Prior code 4.18.210; Ord. 1246 §1, 2006)

Sec. 2-4-220. Enforcement.

(a) The Town Council shall have primary responsibility for enforcement of this Article. The Town Council shall have the power to investigate any complaint, to initiate any suit and to prosecute any action on behalf of the Town for violation of this Article or any applicable civil or criminal law concerning conduct of Town officials. Complaints which are determined to be frivolous shall be dismissed without further inquiry.

(b) The Town Manager shall have primary responsibility for enforcement of alleged violations of this Code by Town employees pursuant to the Town's Personnel Policies.

(c) The Town Council may direct the Town Attorney to investigate or prosecute any violation of this Article.

(d) Any person who believes a violation of this Article has occurred may file a complaint directly with the Ethics Commission pursuant to Section 2-4-210 above or with the Town Council, which shall promptly investigate such complaint or refer the matter for investigation. The Town Council or Ethics Commission may thereafter take such action as it shall deem to be appropriate. Nothing in this Article shall be construed to prevent a complainant from instituting legal action through any appropriate law enforcement or judicial authority.

(e) The various provisions of this Article are cumulative and not exclusive, and shall not be construed to condition or limit any administrative, civil or criminal action or proceeding which may be instituted by the Town pursuant to this Article. (Prior code 4.18.220; Ord. 1246 §1, 2006)

Sec. 2-4-230. Penalty.

(a) The Town Council may reprimand or censure any Town official, including Town Councilpersons, for violation of any of the provisions of this Article.

(b) The Town Council shall have good cause to remove any member of a Town board or commission for violation of any of the provisions of this Article, pursuant to the provisions of Section 9.4 of the Home Rule Charter.

(c) The Town Manager may reprimand or take disciplinary action against any Town employee for violation of the provisions of this Article pursuant to the Town's Personnel Policies. (Prior code 4.18.230; Ord. 1246 §1, 2006; Ord. 1288 §1, 2008)

Sec. 2-4-240. Civil and criminal liability.

The Town shall be entitled to maintain any action at law or in equity, including the pursuit of a civil or criminal action with state or local law, and to recover actual, compensatory, consequential and/or punitive damages and costs, including attorney's fees or the value of salaried attorney's time, from any Town official who knowingly violates any provisions of this Article. (Prior code 4.18.240; Ord. 1246 §1, 2006)

Sec. 2-4-250. Challenges of bias.

Procedures for challenges to Town board and commission members for bias are found in Section 2-5-40 of this Code. (Prior code 4.18.260; Ord. 1246 §1, 2006)

ARTICLE 5

General Provisions for Commissions

Sec. 2-5-10. Good cause.

(a) Finding of any of the following, after notice and hearing, may constitute good cause for removal of any member of any Town board or commission.

(1) Violation of any provision of Article 4 of this Chapter, other than the guidelines contained in Section 2-4-30 thereof.

(2) Violation of the rules of conduct or ethical principles applicable to local government officials and members of boards and commissions contained in the Colorado Standards of Conduct, Section 24-18-101 et seq., C.R.S., or the Bribery and Corrupt Influences and Abuse of Public Office sections of the Colorado Criminal Code, Sections 18-8-301 et seq., and 18-8-401 et seq., C.R.S.

(3) Action constituting self-dealing or other actual conflict of interest, whether or not a violation of any of the above.

(4) Action demonstrating bad faith or failure to exercise honest judgment, or conduct disrespectful of truth or accuracy or designed to create unwarranted delay.

(5) Demonstrated neglect of duties, nonfeasance, misfeasance or malfeasance. For purposes of this Section, *malfeasance* shall mean a breach of an affirmative duty or the performance of a discretionary act with improper or corrupt motives.

(6) Substantial change in circumstances of an appointee or inaccuracies in his or her application that, while not automatically disqualifying, may have reasonably resulted in rejection of the appointment if existent or known at the time of application.

(7) Five (5) absences from any regular or special meetings within any contiguous twelve-month period, whether excused or not.

(8) With specific regard to both the Historic and Architectural Review Commission and the Planning and Zoning Commission, members shall successfully complete the certified training offered by the Town no later than the end of their first term of appointment, or if such training is not available during their first term, then as soon thereafter as available through the Town. Failure to successfully complete the certified training, in accordance with this schedule or demonstrated willful disregard or negligence in adhering to the guidance of such training, may constitute good cause for removal. This provision shall be effective January 1, 2016.

(b) Any finding made pursuant to this Section and relied on to support the removal of a member of a board or commission must be in writing and supported by clear and convincing evidence. The provisions of Paragraphs (a)(1) through (7) above are not intended to be the exclusive basis for a determination of good cause for removal of Town board and commission members. (Prior code 2.30.010; Ord. 1437, 2016)

Sec. 2-5-20. Advisory rulings on conflicts of interest.

(a) If any person has a question as to the applicability of any provision of Article 4 of this Chapter or Section 2-5-10 above to a particular situation, or as to the definition of terms used herein, as the same applies to any member of a board or commission, he or she may, in advance of the questioned action of the board or commission member, timely apply in writing to the Town Attorney for an advisory opinion. Such person shall have the obligation to document any factual assertions made, and shall have an opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of Article 4 of this Chapter before such advisory opinion is made. In the event that the Town Attorney is not available, the Town Clerk shall issue such advisory opinion.

(b) Such opinions may be oral or written but shall be advisory only, and shall not take precedence over any comment, decision or opinion issued by the Ethics Commission pursuant to Section 2-4-210 above if the comment, decision or

opinion covers the same circumstances and the same issues as covered by the opinion of the Town Attorney or Town Clerk. In addition, such advisory opinions shall not be binding on the Town or the parties, shall not be relied upon in proceedings brought under Section 2-4-210 of this Code or Section 2-5-10 of this Chapter and shall not be cited against any person in any administrative or judicial proceedings or otherwise relied upon except for the purpose of providing guidance to members of the public, and to board and commission members when challenged or when they are themselves uncertain about the applicability of the requirements of Article 4 of this Chapter or Section 2-5-10 above.

(c) The procedure contained herein for obtaining an advisory opinion is not exclusive and any person authorized by Section 2-4-210 of this Chapter may seek an advisory opinion from the Ethics Commission as therein provided for. (Prior code 2.30.020; Ord. 1288 §1, 2008; Ord. 1437, 2016)

Sec. 2-5-30. Unexpired terms; vacancies.

Whenever a seat on a Town board or commission other than the Town Council becomes vacant because of removal of the member, or for any other reason (e.g., resignation, ceasing to be a resident of the Town, expiration of term, etc.), the seat shall not be filled for the unexpired term; rather, the new appointee shall sit for a two-year term, unless he or she must be appointed for a one-year term to guarantee that approximately one-half (½) of the terms on the board or commission expire each year. In the event of a vacancy due to the expiration of a term and a successor has not been appointed prior to the expiration of the term, the sitting member shall act until a successor is appointed. (Prior code 2.30.030; Ord. 1288 §1, 2008)

Sec. 2-5-40. Challenges of members for bias.

(a) Any person whose rights may be prejudiced may challenge, after public notice and at least forty-eight (48) hours prior to the public hearing, any member of any Town board or commission for bias in the exercise of any quasi-judicial proceeding as defined in Section 2-4-20 of this Chapter.

(b) *Bias*, for purposes of this Section, shall mean a state of mind or a predisposition to decide an issue in a predetermined way resulting in an inability to exercise a discretionary function in an impartial manner and without prejudice to the rights of the party challenging the member. Bias may exist, among other times, in the following circumstances:

(1) Where the decision-maker, applicant or petitioner has been the target of personal abuse or criticism from the other.

(2) Where the decision-maker is involved in a conflict with the petitioner or applicant; or

(3) The decision-maker might have prejudged the case because of prior participation as a complainant, investigator, fact-finder or initial decision-maker.

(c) Any person wishing to challenge a member of a board or commission for bias may challenge him or her by filing a notice of challenge with the Town Clerk, who shall immediately notify the Mayor. The Mayor shall, in consultation with the Town Attorney and Town Clerk, conduct a preliminary inquiry to determine if there is substance to the challenge. If the Mayor determines that there is substance to the challenge, the Mayor shall accept the challenge for review in the manner prescribed in Subsection (d) below. If the challenge is found to be without substance, it will be deemed denied.

(d) The Mayor shall schedule the challenge for consideration by the Town Council at the earliest opportunity. In the event that the challenge relates to proceedings that have already commenced before the board or commission, the

proceedings shall be stayed or continued until the challenge is determined.

(e) The person making the challenge shall have the obligation to document any factual assertions made and shall have an opportunity to present his or her interpretation of the facts at issue. Likewise, anyone challenged shall have the right to respond to the challenge made.

(f) In the event the Town Council determines, by clear and convincing evidence, that bias exists, it shall disqualify the challenged member from further participation in the matter for which challenged, and may take such further action as the Town Council deems appropriate.

(g) The procedures contained herein are not exclusive and shall not preclude the reliance on any and all other procedures or remedies provided by law. (Prior code 2.30.040; Ord. 1288 §1, 2008)

ARTICLE 6

Commission for Community Assistance, Arts and Special Events

Sec. 2-6-10. Established.

There is hereby created a Commission for Community Assistance, Arts and Special Events (C.C.A.A.S.E.). (Prior code 2.24.010; Ord. 1288 §1, 2008)

Sec. 2-6-20. Membership.

The C.C.A.A.S.E. shall consist of six (6) regular members who shall be appointed by the Town Council. At least four (4) regular members shall be qualified electors of the Town and, at the time of his or her appointment, each shall have been a resident of the Town for at least six (6) months. Of the six (6) regular members, one (1) member, who may be a San Miguel County resident, shall be recommended by R-1 School District administration; one (1) member, who may be a San Miguel County resident, shall be recommended by C.C.A.A.S.E. from San Miguel County health and human service organizations; (1) member shall be from the Town Council; and three (3) members shall be from the public at large. In addition, the Town Council shall appoint two (2) alternates who are qualified electors of either the Town or the County, each of whom at the time of his or her appointment shall have been a resident of the Town or the County for at least six (6) months. (Prior code 2.24.020; Ord. 1288 §1, 2008)

Sec. 2-6-30. Vote; term.

(a) Each regular member except the Chairperson shall have one (1) vote. The Chairperson shall only be authorized to vote in order to break a tie vote. Upon a regular member's absence or disqualification, the alternate member serving during such absence shall have one (1) vote.

(b) Members shall be appointed for two-year terms, staggered so that one-half (½) of the terms expire each year. (Prior code 2.24.030)

Sec. 2-6-40. Organization and meetings.

(a) The members of the C.C.A.A.S.E. shall elect from its regular membership a Chairperson, whose term of office in such capacity shall be for one (1) year with eligibility for reelection. The C.C.A.A.S.E. shall adopt rules for its organization and for the transaction of business. Such business shall not conflict with the ordinances of the Town or applicable laws of the State.

(b) All meetings shall be open to the public, and the C.C.A.A.S.E. shall keep a public record of its proceedings. Meetings shall be held at least every month, or more frequently as the C.C.A.A.S.E. deems advisable. (Prior code 2.24.040; Ord. 1288 §1, 2008)

Sec. 2-6-50. Mission.

(a) The C.C.A.A.S.E. shall function for the purposes listed below.

(1) Arts and special events organizations:

a. To administer Town policy and recommend annual funding allocations to the Town Council for community nonprofit arts organizations and special events.

b. To develop, maintain and encourage the expansion of an environment conducive to festivals, performing arts, visual arts and special events.

(2) Community support organizations:

a. To administer Town policy and recommend annual funding allocations to the Town Council for community nonprofits that preserve or enrich the health, education, welfare and fitness of the community.

b. To encourage the development of an environment conducive to healthy community support organizations that provide community programs for citizen welfare and education.

(b) Budget. Funds that are allocated by the Town Council for arts and special events and those allocated for community support grants will be kept separate and not be commingled. (Prior code 2.24.050; Ord. 1288 §1, 2008)

Sec. 2-6-60. Duties.

The duties of the C.C.A.A.S.E. shall include but not be limited to the following:

(1) To hold annual hearings and prepare annual recommendations for Town funding allocations in a timely manner for the budget process, to be approved by the Town Council.

(2) To coordinate activities with the Telluride Council for the Arts and Humanities or any other organization which operates as an umbrella organization for arts and special events in the Town.

(3) To develop, maintain and oversee policy on the following:

a. Special event policies and guidelines.

b. Event calendar for special events.

c. Banner and flag guidelines.

d. Grant guidelines and policies. (Prior code 2.24.060; Ord. 1288 §1, 2008)

ARTICLE 7

Ecology Commission

Sec. 2-7-10. Established.

There is created an Ecology Commission for the Town. (Prior code 2.12.010)

Sec. 2-7-20. Composition.

The Ecology Commission shall consist of five (5) regular and two (2) alternate members, who shall be appointed by the Town Council. At least five (5) of the members shall be qualified electors of the Town, each of whom at the time of his or her appointment shall have been a resident of the Town for at least six (6) months. Two (2) of the seven (7) members may be qualified electors of the County, each of whom at the time of his or her appointment shall have been a resident of the County for at least six (6) months. (Prior code 2.12.020)

Sec. 2-7-30. Terms; vacancies.

Terms shall be for two (2) years. Vacancies for unexpired terms shall be filled pursuant to Section 2-5-30 of this Code. (Prior code 2.12.030)

Sec. 2-7-40. Organization; meetings.

The voting members of the Ecology Commission shall elect from its voting members a Chairperson. The Chairperson's term of office in such capacity shall be for one (1) year with eligibility for reelection. The Ecology Commission shall adopt rules for its organization and for the transaction of business that do not conflict with ordinances of the Town or the laws of the State. All meetings shall be open to the public and a public record of its proceedings shall be kept. Meetings shall be held quarterly, or more frequently as the Ecology Commission deems advisable. (Prior code 2.12.040)

Sec. 2-7-50. Staff and contracted professionals.

The Ecology Commission shall be staffed by existing Town employees and, if within amounts appropriated for the purpose by the Town Council, may contract with professionals and consultants. (Prior code 2.12.050)

Sec. 2-7-60. Powers and duties.

Wherein ecology is defined as the study of the interactions of organisms and their environment, including other organisms, the following powers and duties are assigned to this Commission.

(a) The Ecology Commission shall address issues of ecological concern, as identified by the Town Council. These issues shall include, but not be limited to, the following:

(1) The Ecology Commission shall address issues that impact the quality, health, and welfare of natural ecosystems within the urban core and at the boundaries between the urbanized environment and adjacent wild lands.

(2) The Ecology Commission shall address human-wildlife interactions of concern. Such work shall address mechanisms that reduce or eliminate interactions that may pose a threat to wildlife and/or the safety of the general public.

(3) The Ecology Commission shall conduct research and strive to educate the community about methods to mitigate and minimize everyday adverse impacts on the environment, including but not limited to invasive flora and fauna, landscaping practices, and de-icing practices.

(4) The Ecology Commission shall stay apprised of issues that may impact the Town's air quality and provide input to the Town Council, when requested.

(5) The Ecology Commission shall stay apprised of issues that may impact water quality in the Town's streams, rivers, and wetlands, as well as its drinking water. The Commission shall provide input to the Town Council, when requested.

(6) The Ecology Commission shall work cooperatively with regional organizations, as appropriate, to facilitate community sustainability. The Commission shall provide input to the Town Council on sustainability issues, when requested.

(b) The Ecology Commission shall submit an annual work plan for Council review and approval. Council's review and approval shall occur within Council's annual budget review process, except in the Commission's first year of establishment.

(c) If explicitly authorized by Town Council, the Ecology Commission may develop a Wildlife Program or Programs which, through education, policy development and implementation of regulations, enhances coexistence of public activities with wildlife, in and immediately adjacent to the Town's boundaries. Such programs may include a Wildlife Resource Information System. Any such program shall attempt to preserve known endangered species habitats and minimize all disturbances to those habitats.

(d) The Ecology Commission shall not conduct reviews of new buildings and structures, or their impacts, which are subject to the Town's Land Use Code, excepting bridges over Cornet Creek and the San Miguel River. This shall not be construed to prevent Ecology Commission members from providing public input as individuals within the Town's land use approval process. (Prior code 2.12.060; Ord. 1288 §1, 2008; Ord. 1371, 2012)

ARTICLE 8

Open Space Commission

Sec. 2-8-10. Established; members.

The Open Space Commission is established by the Town Council as follows:

(1) Qualifications. Seven (7) members shall be appointed by the Town Council, including one (1) Councilperson. The Open Space Commission appointments shall be as follows:

a. One (1) shall be a member of the Town Council.

b. Four (4) shall be qualified electors of the Town for at least one (1) year prior to the time of appointment.

c. One (1) shall be a qualified elector of the Town who has resided in the Town for at least one (1) year prior to the time of appointment or a qualified elector of the County who has resided in the County for at least one (1) year prior to the time of appointment.

d. One (1) shall be a crossover member who is also a member of the San Miguel County Open Space Commission.

(2) Term of office. Each member shall be appointed for a term of two (2) years, staggered so that approximately one-half (½) of the terms expire each year; except the crossover member, who shall have a two-year term or shorter if necessary to be concurrent with his or her term on the San Miguel County Open Space Commission. (Prior code 2.26.010; Ord. 1256 §§1—3, 2006; Ord. 1288 §1, 2008)

Sec. 2-8-20. Powers and duties.

The Open Space Commission shall:

(1) Establish priorities and criteria for Town Council adoption for the acquisition of open space and for the management and maintenance of all properties acquired with expenditures from the Open Space Fund.

(2) Review open space elements of comprehensive, master and area plans and make recommendations to the Town Council concerning any open-space-related changes to plans.

(3) Make recommendations to the Planning and Zoning Commission and Ecology Commission as warranted regarding open space impacts of applications filed under the Town's and County's land use codes and regarding exactions or dedications required to fulfill the goals of the Open Space Program, as established in this Article.

(4) Make recommendations to the Town Council for the acquisition of specific fee interests, options, easements or other interests in real property by expenditures from the Open Space Fund.

(5) Establish relationships with local and regional land trusts to more effectively discharge Open Space Commission responsibilities.

(6) Conduct all meetings of the Open Space Commission in an open and public setting, except that executive sessions may be convened pursuant to the following standards:

a. The subject matter of any executive session shall be limited to the identification, evaluation or purchase of any property for

open space purposes, inclusive of negotiations necessary thereto.

b. The Open Space Commission shall give seventy-two (72) hours' written notice to the Town Council of any executive session.

c. A majority of the Open Space Commission members in attendance may vote publicly to convene an executive session, at which time a public announcement is made as to the permissible grounds for conducting the same.

d. Attendance at executive sessions shall be restricted to members of the Open Space Commission, the Town Council, designated Town staff and such individuals as the Open Space Commission or the Town Council may deem necessary for advice and information.

e. In addition, the following procedures shall be followed in the conduct of executive sessions:

1. The Open Space Commission shall define and publish the proposed topic of discussion to the fullest extent possible.

2. When applicable, the Open Space Commission shall identify, in conjunction with the announcement of an executive session, the municipal ordinance being relied on for the executive session.

3. During executive sessions, the Chairperson shall immediately terminate any discussions falling outside the scope of authorized executive sessions.

4. Upon completion of the executive session and during formal action being taken pursuant thereto, any Open Space Commission member may express his or her reason for his or her action even if expressed during the executive session.

5. The Open Space Commission may, by motion, publish notice of and conduct a public hearing or discussion on any executive matter the Open Space Commission feels appropriate to solicit public comment upon.

f. The Town Manager or, in the event he or she does not attend, the Chairperson of the Open Space Commission, shall submit to the Town Council a written report of the substance of the executive session.

g. No legally binding or formal action shall be taken during any executive session, nor may any meeting of the Open Space Commission be adjourned in executive session.

h. The Town Clerk shall tape record all executive sessions, which recording shall be available only to the Open Space Commission and the Town Council and shall not be made available to the public, except upon a majority vote of the Town Council or pursuant to a valid order as issued by a court of competent jurisdiction.

i. A breach of the standards as provided in this Paragraph (6) shall constitute a municipal ordinance violation and subject the offender to those penalties as set forth in Section 1-4-10 of this Code. (Prior code 2.26.020; Ord. 1288 §1, 2008)

Sec. 2-8-30. Staff support.

The Town Manager shall designate staff to carry out the following responsibilities:

(1) Implement the decisions and directives and carry out the administrative functions of the Open Space Commission as approved by the Town Council.

(2) Oversee the management and maintenance of open space lands acquired with Open Space Funds as defined in this Article.

(3) Review and comment on all development applications impacting existing and planned open space lands. (Prior code 2.26.030)

Sec. 2-8-40. Open Space Fund; restrictions.

All funds appropriated to the Open Space Fund by the Town Council, by the Town's electorate and through the issuance of general obligation debt shall be utilized solely according to the following restrictions:

(1) Separate fund. Funds shall be deposited in a separate Open Space Fund ("Fund") and shall, together with all interest or other earnings, be earmarked for and restricted to the allocations described below in Paragraphs (2) and (3) below, and such Fund shall not be spent for other purposes under any circumstances.

(2) Allocations to acquisitions and improvements. Ninety-four percent (94%) of the revenue collected shall be set aside exclusively for the acquisition and improvement of real property or interests therein for open space as defined in Section 2-8-50 below, open space uses and purposes as defined in Section 2-8-60 below, and the payment of debt issued therefor and the costs associated with such issuances. Acquisition and improvement costs shall include all costs necessary in acquiring the real property, including but not limited to legal fees, surveys, title review and appraisals. Notwithstanding the foregoing, the Town Council may acquire parcels of land for open space of which a portion or all of the parcel may not meet the open space definition of Section 2-8-50 below. For example, a thirty-five-acre parcel may be acquired which has a dwelling unit built on one thousand five hundred (1,500) square feet of the parcel or the Town could receive a donation of developed land. Within six (6) months from the date of acquiring such lands:

a. The Open Space Commission shall recommend and the Town Council shall determine which portions of the acquired lands do not meet the open space definition.

b. For those portions of acquired lands which are determined by the Town Council not to meet the open space definition, the Town Council shall designate such portions for acquisition by the Town with other Town funds, or for sale to the public at large. The proceeds from such acquisitions or sales shall be deposited into the Open Space Fund.

(3) Allocations to administration and maintenance of open space. Up to six percent (6%) of the revenue collected shall be set aside exclusively for administering the open space program, funding legal services and managing, maintaining, rehabilitating and preserving Town open space either acquired from the Open Space Fund or acquired from other sources. Such revenue shall not be used to replace existing funding for the maintenance of open space. (Prior code 2.26.040)

Sec. 2-8-50. Definition of open space.

Open space shall be defined as primarily undeveloped lands which meet one (1) or more of the following criteria: within public scenic vistas; bounding or within urbanized areas; incorporating or protecting significant wildlife habitat; preserving historic agricultural and ranching activities; protecting riparian or wetlands areas; and protecting other public lands from the impacts of development. (Prior code 2.26.050)

Sec. 2-8-60. Open Space Program.

Open space land shall be acquired, maintained, preserved, retained and used only for one (1) or more of the following purposes:

(1) Preserving or restoring natural areas characterized by or including terrain, geologic formations, flora or fauna that are unusual, spectacular, historically important, scientifically valuable or unique, or that represent outstanding or rare examples of native species;

(2) Preserving land or water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats or fragile ecosystems;

(3) Preserving land for passive recreational use, such as hiking, photography or nature studies and, if specifically designated, bicycling, horseback riding, cross-country skiing, fishing and/or recreational camping not to exceed seven (7) consecutive days;

(4) Preserving agricultural uses and land suitable for agricultural production;

(5) Shaping the development of the Town, limiting urban sprawl and managing growth;

(6) Maintaining a defined edge for the Town;

(7) Preventing encroachment on floodplains and riparian areas; and

(8) Preserving land for its aesthetic value or contribution to the quality of life of the community. (Prior code 2.26.060)

ARTICLE 9

Parks and Recreation Commission

Sec. 2-9-10. Established.

There is created a Parks and Recreation Commission for the Town. (Prior code 2.16.010)

Sec. 2-9-20. Duties.

It is the duty of the Parks and Recreation Commission to interpret the needs and desires of the community for recreation and parks services by:

(1) Holding scheduled public meetings at least once monthly to provide the Town residents with an opportunity to comment on and make suggestions for improvements to the Town's present and anticipated parks and recreation programs.

(2) Working cooperatively with the Parks and Recreation Director in the development of programs and improvements.

(3) Recommending in cooperation with the Parks and Recreation Director an annual program and budget for recreation and park activities by August 1 of each year for the following year.

(4) Anticipating future recreation programs and parks development needs by creating and updating a multi-year master plan. (Prior code 2.16.020)

Sec. 2-9-30. Membership.

(a) The Parks and Recreation Commission shall consist of five (5) regular and two (2) alternate members. Terms shall be for two (2) years, staggered so that approximately one-half (½) of the terms expire each year.

(b) All members of the Parks and Recreation Commission shall be appointed by and serve at the pleasure of the Town Council. No less than five (5) of the members shall be qualified electors of the Town for not less than six (6) months at the time of their appointment. Up to two (2) members may be persons who reside outside of the Town but within the County, who have been residents and qualified electors of the County for not less than six (6) months at the time of their appointment. (Prior code 2.16.030)

CHAPTER 4

Revenue and Finance

Article 1 Establishment and Management of Funds

Sec. 4-1-10 Airline Guaranty Program Fund created
Sec. 4-1-20 Capital Improvement Fund created
Sec. 4-1-30 Open Space Fund created
Sec. 4-1-40 Parking and Transportation Fund created
Sec. 4-1-50 Custody and management of funds
Sec. 4-1-60 Investment of funds
Sec. 4-1-70 Deposits
Sec. 4-1-80 Payment reports
Sec. 4-1-90 Debts to Town

Article 2 Sales and Use Tax

Division 1 General Provisions
Sec. 4-2-10 Purpose
Sec. 4-2-20 Definitions

Division 2 Sales Tax
Sec. 4-2-110 Rate, imposition and collection, distribution
Sec. 4-2-120 Sales tax schedule
Sec. 4-2-130 Transactions, items and services subject to sales tax
Sec. 4-2-140 Exemptions from sales tax
Sec. 4-2-150 Exemption; burden of proof
Sec. 4-2-160 Deductions from gross sales
Sec. 4-2-170 Credit sales
Sec. 4-2-180 Acquisition inception or cessation of business
Sec. 4-2-190 Retailer responsible for collection and payment of tax
Sec. 4-2-200 Trust status of tax in possession of retailer
Sec. 4-2-210 Filing returns; due date
Sec. 4-2-220 Reporting periods
Sec. 4-2-230 Duty to keep books and records
Sec. 4-2-240 License required
Sec. 4-2-250 License; application and content
Sec. 4-2-260 License cancellation or revocation
Sec. 4-2-270 Authority of Finance Director
Sec. 4-2-280 Audit of record
Sec. 4-2-290 Coordinated audit
Sec. 4-2-300 Tax information confidential
Sec. 4-2-310 Overpayment from returns
Sec. 4-2-320 Tax overpayment determined through audit
Sec. 4-2-330 Refunds of disputed tax
Sec. 4-2-340 Claim for refund
Sec. 4-2-350 Intercity claims for recovery
Sec. 4-2-360 Underpayments from returns
Sec. 4-2-370 Tax deficiencies from failure to file
Sec. 4-2-380 Tax deficiencies determined through audit
Sec. 4-2-390 Penalties

Article 2 Sales and Use Tax (cont'd)

Sec. 4-2-400 Interest
Sec. 4-2-410 Notice of assessment
Sec. 4-2-420 Protest of notice of assessment or denial of refund
Sec. 4-2-430 Hearings
Sec. 4-2-440 Appeals
Sec. 4-2-450 Lien for tax due
Sec. 4-2-460 Performance of lien
Sec. 4-2-470 Release of lien
Sec. 4-2-480 Civil action to recover tax due
Sec. 4-2-490 Jeopardy assessment
Sec. 4-2-500 Distraint and sale
Sec. 4-2-510 Status of tax due in bankruptcy and receivership

Division 3 Use Tax

Sec. 4-2-610 Use tax levied
Sec. 4-2-620 Revenue dedication
Sec. 4-2-630 Exemptions
Sec. 4-2-640 Proration as applied to certain construction equipment
Sec. 4-2-650 Payment requirements on building and construction use tax; exemption certificate required
Sec. 4-2-660 Vehicle use tax
Sec. 4-2-670 Collection; limitation of action
Sec. 4-2-680 Refunds; limitations of actions
Sec. 4-2-690 Interest in underpayment, nonpayment or extensions of time for payment of tax
Sec. 4-2-700 Deficiency due to negligence
Sec. 4-2-710 Neglect or refusal to make return or pay
Sec. 4-2-720 Penalty interest upon unpaid use tax
Sec. 4-2-730 Rate of interest
Sec. 4-2-740 Other remedies
Sec. 4-2-750 Final decision of Town
Sec. 4-2-760 Collection; map of municipal boundaries
Sec. 4-2-770 Dispute resolution and appeal

Division 4 Violations and Limitations

Sec. 4-2-810 Violations; summons and complaints; penalty
Sec. 4-2-820 Statute of limitations

Article 3 Real Estate Transfer Tax

Sec. 4-3-10 Definitions
Sec. 4-3-20 Tax imposed
Sec. 4-3-30 Revenue dedication
Sec. 4-3-40 Liability for payment
Sec. 4-3-50 Amount
Sec. 4-3-60 Exemption; grounds
Sec. 4-3-70 Application for exemption
Sec. 4-3-80 Property outside Town
Sec. 4-3-90 Enforcement by Town Manager
Sec. 4-3-100 Annual report to Town Council
Sec. 4-3-110 Report of transfer
Sec. 4-3-120 Collection by closing agents
Sec. 4-3-130 Collection by County
Sec. 4-3-140 Delinquency; interest
Sec. 4-3-150 Lien status

Article 3 Real Estate Transfer Tax (cont'd)
Sec. 4-3-160 Notice of delinquency
Sec. 4-3-170 Collection action
Sec. 4-3-180 Recording without payment
Sec. 4-3-190 Evasion by artifice or device
Sec. 4-3-200 Remedies cumulative

Article 4 Excise Tax
Sec. 4-4-10 Purpose
Sec. 4-4-20 Definitions
Sec. 4-4-30 Excise tax imposed
Sec. 4-4-40 Excise tax license required; suspension or revocation
Sec. 4-4-50 Collection and remittance of tax; vendor collection fee; delinquency interest and penalty
Sec. 4-4-60 Exemption from excise tax
Sec. 4-4-70 Review of return; underpayment and overpayment of tax; notices
Sec. 4-4-80 Disputed tax payment; refund
Sec. 4-4-90 Records and audits; investigations
Sec. 4-4-100 Failure to collect tax or file return; recovery of tax deficiencies
Sec. 4-4-110 Tax lien
Sec. 4-4-120 Appeals to Town Manager
Sec. 4-4-130 Administration of tax collections; authority of Finance Director
Sec. 4-4-140 Tax information confidential
Sec. 4-4-150 Limitations
Sec. 4-4-160 Revenue dedication; Airline Guaranty Program Fund
Sec. 4-4-170 Sunset and repealer
Sec. 4-4-180 Violations; penalty

Article 5 Property Tax
Sec. 4-5-10 Revenue dedication
Sec. 4-5-20 Museum tax revenue dedication

Article 6 Procurement Code
Division 1 General Provisions
Sec. 4-6-10 Purpose
Sec. 4-6-20 Procurement contrary to Article
Sec. 4-6-30 Requirement of good faith
Sec. 4-6-40 Application of provisions
Sec. 4-6-50 Definitions
Sec. 4-6-60 Public access to procurement information
Sec. 4-6-70 Specifications
Division 2 Procurement Organization and Authority
Sec. 4-6-110 Authority and duties of Town Manager
Sec. 4-6-120 Duties of department heads and Procurement Officer
Sec. 4-6-130 Authority of Town Attorney
Sec. 4-6-140 Approvals
Sec. 4-6-150 Formal contract procedure
Sec. 4-6-160 Business license required
Division 3 Source Selection and Contract Formation
Sec. 4-6-210 Methods of source selection
Sec. 4-6-220 Competitive sealed bidding
Sec. 4-6-230 Competitive sealed proposals
Sec. 4-6-240 Small purchases

Article 6 Procurement Code (cont'd)

Sec. 4-6-250 Miscellaneous exemptions
Sec. 4-6-260 Emergency procurement
Sec. 4-6-270 State, federal or CML bid
Sec. 4-6-280 Cancellation of invitations for bids or requests for proposals
Sec. 4-6-290 Responsibility of bidders and offerors
Sec. 4-6-300 Prequalifications of suppliers
Sec. 4-6-310 Bid security
Sec. 4-6-320 Contract performance and payment bonds
Sec. 4-6-330 Bond form and copies
Sec. 4-6-340 Type of contracts
Sec. 4-6-350 Multi-term contracts
Sec. 4-6-360 Contract clauses
Sec. 4-6-370 Contract modifications and change orders; fiscal responsibility
Sec. 4-6-380 Right to inspect plant
Sec. 4-6-390 Right to audit records
Sec. 4-6-400 Finality of determinations
Sec. 4-6-410 Reporting of anti-competitive practices
Sec. 4-6-420 Retention of procurement records

Division 4 Methods of Disposal

Sec. 4-6-510 Reporting
Sec. 4-6-520 Methods
Sec. 4-6-530 Hazardous materials
Sec. 4-6-540 Sales to employees
Sec. 4-6-550 Grant-funded equipment

Division 5 Legal and Contractual Remedies

Sec. 4-6-610 Authority to resolve protested solicitations and awards
Sec. 4-6-620 Authority to debar or suspend

Article 7 Telephone Utilities Tax

Sec. 4-7-10 Levied
Sec. 4-7-20 Computation; payment
Sec. 4-7-30 Inspection of records
Sec. 4-7-40 Local purpose
Sec. 4-7-50 Other business taxes superseded
Sec. 4-7-60 Failure to pay
Sec. 4-7-70 Failure to file statement

Article 8 Unclaimed Property

Sec. 4-8-10 Purpose
Sec. 4-8-20 Definitions
Sec. 4-8-30 Procedure for disposition of property
Sec. 4-8-40 Public sale of abandoned property
Sec. 4-8-50 Disposition of revenues

ARTICLE 1

Establishment and Management of Funds

Sec. 4-1-10. Airline Guaranty Program Fund created.

A separate fund of the Town, to be known as the Airline Guaranty Program Fund, is created into which there shall be deposited all tax moneys and revenues generated and collected from the imposition of the excise tax provided for in this Article. Moneys deposited into the Airline Guaranty Program Fund shall be recorded and accounted for separate and apart from all other Town funds, and shall not be intermingled or mixed with general or other tax revenues. (Prior code 3.40.160)

Sec. 4-1-20. Capital Improvement Fund created.

A Capital Improvement Fund is created, which fund shall be kept separate from the general funds of the Town and which fund shall be used to provide capital improvements for the Town, including acquisition of real estate for public purposes for the Town and payment of any obligations of the Town entered for such purposes. (Prior code 3.16.020; Ord. 1288 §1, 2008; Ord. 1358, 2011)

Sec. 4-1-30. Open Space Fund created.

A separate fund of the Town, to be known as the Open Space Fund, is created, and the funds therein shall be used only for the purposes allowed by law. (Ord. 1288 §1, 2008)

Sec. 4-1-40. Parking and Transportation Fund created.

A parking and transportation fund is created for the purpose of planning and implementing a parking and transportation system with expending authority vested in the Town Council. (Prior code 3.16.010)

Sec. 4-1-50. Custody and management of funds.

Moneys in the funds created in this Article shall be in the custody of and managed by the Finance Director. The Finance Director shall maintain accounting records and account for all of said moneys as provided by law. Moneys in the funds of the Town shall be invested or deposited by the Finance Director in accordance with the provisions of law. All income from the assets of any fund shall become a part of the fund from which derived and shall be used for the purpose for which such fund was created; provided that, except as otherwise provided in this Code or by other ordinances or laws, the Town Council may transfer out of any fund any amount at any time to be used for such purpose as the Town Council may direct. (Ord. 1288 §1, 2008)

Sec. 4-1-60. Investment of funds.

The Finance Director may invest public funds and moneys of the Town in any securities now or hereafter designated as legal investments in any applicable state statute or in any of the following securities:

(1) Obligations issued by any agency, instrumentality or public corporation of the United States;

(2) Obligations issued by or on behalf of the State or any agency, instrumentality or public corporation thereof;

(3) Obligations issued by or on behalf of any political subdivision of the State, including the Town;

(4) Guaranteed investment contracts of domestically regulated insurance companies with claims paying ability ratings of "AA" or better from Standard & Poor's Corporation;

(5) Repurchase agreements of any marketable security described in this Article which

afford the Town a perfected security interest in such security; and

(6) Shares in any money market fund or account, unit investment trust or open- or closed-end investment company, all of the net assets of which are invested in securities described in this Article, to the extent not prohibited by Colorado Constitution Article XI, Section 2. (Prior code 3.17.010)

Sec. 4-1-70. Deposits.

The Finance Director may deposit the Town's public funds and moneys in any bank, savings and loan association or credit union located in the State as now or hereafter provided in any applicable state statute, or in any bank, savings and loan association or credit union located outside the State, provided that such deposit is insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration or collateralized as provided under the laws governing deposits of public funds of the state in which such institution is located. (Prior code 3.17.020)

Sec. 4-1-80. Payment reports.

The Town may disburse appropriated funds by check. Payment reports shall be routinely prepared for each check issue date. Purchase orders shall be submitted to the Finance Department after approval pursuant to the written policy for payment promulgated by the Town Manager. Payment reports shall be routinely submitted to the Town Council for its review at regularly scheduled Town Council meetings. (Prior code 3.05)

Sec. 4-1-90. Debts to Town.

Whenever the owner of any land in the Town becomes delinquent in paying any charges, assessments or taxes, the Town may, in addition to other remedies it may have, certify the delinquent amounts, plus ten percent (10%) thereof to cover administrative expenses, plus reasonable interest on the delinquent amounts accruing from the date they became delinquent, to the County Treasurer, to be collected against the land, and paid over to the Town in the same manner as for ad valorem taxes under Title 31, Article 20, C.R.S. (Prior code 3.04.010)

ARTICLE 2

Sales and Use Tax

Division 1
General Provisions

Sec. 4-2-10. Purpose.

The purpose of this Article is to impose a sales or use tax on all retail sales, certain leases of tangible property and the furnishing of certain services as hereafter defined, within the Town, and to provide to the Town the authority and administrative mechanisms to collect and administer said sales taxes. All sales, leases and purchases of tangible personal property and the furnishing of certain services as defined in this Article are taxable unless specifically exempted in this Article or by other statutory authority. The sales tax imposed by this Article applies to each transfer of ownership, possession and control of such tangible personal property, and may occur more than once during the life of the property. (Ord. 1263, 2007)

Sec. 4-2-20. Definitions.

The following words and phrases as used in this Article shall have the following meaning:

Access services means the services furnished by a local communications exchange company to its customers who provide telecommunications services that allow them, in turn, to provide such telecommunications services.

Auction means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

Automotive vehicle means any vehicle or device in, upon, or by which any person or property is, or may be, transported or drawn by a public highway, or any device used or designated for aviation or flight in the air. *Automotive vehicle* includes, but is not limited to, motor vehicles, trailers, semi-trailers or mobile homes. *Automotive vehicle* shall not include devices moved solely by human power, or those used exclusively upon stationary rails or tracks.

Business means all activities engaged in or caused to be engaged in with object of gain, benefit or advantage, direct or indirect.

Charitable organization means any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involves the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in (including publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

City or *Town* means the municipality of the Town of Telluride, Colorado, a Home Rule Municipality.

Construction materials means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project, including public and private improvements. *Construction materials* include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking materials, cement,

concrete, conduit, electrical wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing; and sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire and wire netting, screen, water mains and meters and wood preservatives. The above materials, when used for forms or other items that do not remain as an integral or inseparable part of a completed structure or project are not construction materials.

Consumer means any individual person, or person engaged in business in the Town, who uses, stores, distributes or otherwise consumes in the Town tangible personal property or taxable services purchased from sources inside or outside the Town.

Drugs dispensed in accordance with a prescription means drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist or pharmacy intern, specifying the name and address for the person to whom the medicine, drug or poison is offered; and directions, if any, to be placed on the label.

Engaged in business in the Town means performing or providing services, or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the Town. *Engaged in business in the Town* includes, but is not limited to, any one (1) of the following activities by a person:

a. Directly, indirectly or by a subsidiary maintains a building, store, office, salesroom, warehouse or other place of business within the Town;

b. Sends one (1) or more employees, agents or commissioned salespersons into the Town to solicit business, or to install, assemble, repair, service or assist in the use of its products or for demonstration purposes;

c. Maintains one (1) or more employees, agents or commissioned salespersons on duty at a location within the Town;

d. Owns, leases, rents or otherwise exercises control over real or personal property within the Town; or

e. Makes more than one (1) delivery into the Town within a twelve-month period.

Exempt commercial packaging materials means containers, labels and shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meets all of the following conditions:

a. Is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;

b. Is transferred by said person along with and as a part of the finished product to the purchaser; and

c. Is not returnable to said person for reuse.

Farm closeout sale means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations that are being abandoned.

Finance Director means the Finance Director (Department Head) for the Town of Telluride, Colorado, or such other person designated by the Town.

Food means food for domestic home consumption as defined in 7 U.S.C. § 2012(g), for purposes of the federal food stamp program as defined in 7 U.S.C. § 2012(h).

Gross taxable sales means the total amount received in money, credit, property or other consideration valued in money for all sales, leases or rentals of tangible personal property, excluding the fair market value of exchanged property which is to be sold thereafter in the normal course of a retailer's business.

License means a Town sales tax license.

Linen services means services involving the provision and cleaning of linens, including but not limited to rags, uniforms, coveralls, towels, floor mats and diapers.

Lodging services means the furnishing of rooms or accommodations by any person, who for a consideration uses, possesses or has the right to use or possess any room in a hotel, inn, bed and breakfast residence, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp and campground, trailer court and park, condominium, single- or multiple-family residential unit or similar establishment for a period of less than thirty (30) days under any concession, permit, right of access, license to use or other agreement, or otherwise.

Medical supplies means drugs, prosthetic medical and dental appliances and special beds for patients with neuromuscular or similar debilitating ailments, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine, dentistry or podiatry; corrective eyeglass lenses (including eyeglass frames) and corrective contact lenses, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine or optometry; wheelchairs and crutches, when sold for the direct, personal use of a specific individual; oxygen and hemodialysis products for use by a medical patient, hearing aids, hearing aid batteries, insulin, insulin measuring and injecting devices, glucose to be used for treatment of insulin reactions and human whole blood, plasma, blood products and derivatives. This definition excludes items purchased for use by medical and dental practitioners or medical facilities in providing their services, even though certain of those items may be packaged for single use by individual patients after which the item would be discarded.

Mobile machinery and *self-propelled construction equipment* means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highway. This definition includes, but is not

limited to, wheeled vehicles commonly used in the construction, maintenance and repair of roadways, the drilling of wells and the digging of ditches.

Newspaper means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term *newspaper* does not include magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service or books or pocket editions of books.

Pay television shall include, but not be limited to, cable, microwave or other television service for which a charge is imposed.

Person means any individual, firm, partnership, joint venture, corporation, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any group or combination acting as a unit.

Preprinted newspaper supplements means inserts, attachments or supplements circulated in newspapers that are primarily devoted to advertising; and the distribution, insertion or attachment of which is commonly paid for by the advertiser.

Prescription drugs for animals means drugs dispensed in accordance with any order in writing, dated and signed by a practitioner, or given orally by a practitioner, specifying the particular animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

Price or *purchase price* means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this Chapter, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value or the property exchanged at the same time and place of the exchange, if:

a. Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or

b. Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration or certification under the laws of this State, including but not limited to vehicles operating upon public highways, off-highway recreation vehicles, watercraft and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

Price or *purchase price* includes:

a. The amount of money received in cash or due in cash and credits.

b. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.

c. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.

d. The total price charged on credit sales, including finance charges which are not separately stated. Any amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of the promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase

price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.

e. Installation, delivery and wheeling-in charges included in the purchase price and not separately stated.

f. Transportation and other charges to effect delivery of tangible personal property to the purchase.

g. Indirect federal manufacturer's excise taxes, such as taxes on automobiles, tires and floor stock.

h. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and services performed and the profit thereon.

Price or *purchase price* shall not include:

a. Any sales or use tax imposed by the State or by any political subdivision thereof.

b. The fair market value of property exchanged if such property is to be sold thereafter in the retailer's usual course of business. This is not limited to exchanges in Colorado. Out-of-state trade-ins are an allowable adjustment to the purchase price.

c. Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

Private communications services means telecommunications services furnished to a subscriber, which entitle the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations.

Prosthetic devices means any artificial limb, part, device or appliance for human use which aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed practitioner of the healing arts. *Prosthetic devices* include, but are not limited to, prescribed auditory, opthalmic or ocular, cardiac, dental or orthopedic devices or appliances, oxygen concentrators and oxygen with related accessories.

Purchase or *sale* means the acquisition for any consideration by any person of tangible personal property or taxable services that are purchased, leased, rented, sold, used, stored, distributed or consumed, but excludes a bona fide gift of property or services. These terms include capital leases, installment and credit sales and property and services acquired by:

a. Transfer, either conditionally or absolutely, of title or possession, or both, to tangible personal property;

b. A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services; the utilization of coin-operated devices, except coin-operated telephones, which do not vend articles of tangible personal property shall be considered short-term rentals of tangible personal property;

c. Performance of taxable services; or

d. Barter or exchange for other property or services, including coupons.

The terms *purchase* and *sale* do not include:

a. A division of partnership assets among the partners according to their interests in the partnership;

b. The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets controlled.

c. The transfer of assets of shareholders in the formation or dissolution of professional corporations;

d. The dissolution of the pro-rata distribution of the corporation's assets to its stockholders;

e. A transfer of a partnership interest;

f. The transfer in a reorganization qualifying under Section 368(a)(1) of the "Internal Revenue Code of 1954";

g. The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;

h. The repossession of personal property by a chattel mortgage holder or foreclosure by a lien holder;

i. The transfer of assets from a parent corporation to a subsidiary corporation which is owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

j. The transfer of assets from a subsidiary corporation which is owned at least eighty percent (80%) by the parent corporation to a parent corporation, or to another subsidiary which is owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

k. The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this Chapter was paid by the transferor corporation at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating or physical changing of the assets by the transferor corporation. To such an extent any transfer referred to in this Subparagraph shall constitute a sale. For the purposes of this Subparagraph, a *closely held subsidiary corporation* is one in which the parent corporation owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent (80%) of the total number of shares of all other classes of stock.

Recreation services means all services relating to athletic or entertainment participation events, including but not limited to snow skiing, pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin-operated amusement devices, video games and video club memberships.

Retail sales means all sales except wholesale sales.

Retailer means any person selling, leasing or renting tangible personal property or services at retail. *Retailer* shall include any:

a. Auctioneer;

b. Salesperson, representative, peddler or canvasser who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;

c. Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by donation or gift, or that the proceeds are to be used for charitable or governmental purposes.

Return means the sales tax reporting form used to report sales tax.

Sales tax means the tax to be collected and remitted by a retailer on sales taxed under this Article.

Security system services means electronic security system services. Such term does not include nonelectronic security services such as consulting, or human or guard dog patrol services.

Sound system services means sound system services involving provision of broadcast or prerecorded audio programming to a building or portion thereof. The term does not include installation of sound systems where the entire system becomes the property of the building owner, or the sound system service is for presentation of live performances.

Tangible personal property means corporeal personal property.

Tax means the sales tax due from a retailer.

Tax deficiency means any amount of tax that is not reported or not paid on or before the due date.

Taxable sales means gross sales, less any exemptions and deductions specified in this Article.

Taxable services means services subject to tax pursuant to this Article.

Taxpayer means any person obligated to collect and/or pay tax under the terms of this Article.

Telecommunications service means the transmission of any two-way interactive electromagnetic communications, including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave or any combinations of such media. *Telecommunications service* includes, but is not limited to, basic local exchange telephone service, toll telephone service and teletypewriter service, including but not limited to residential and business service, directory assistance, cellular mobile telephone or telecommunications service, specialized mobile radio and two-way pagers and paging service, including any form of mobile two-way communication. *Telecommunications service* does not include separately stated nontransmission services which constitute computer processing applications used to act on the information to be transmitted.

Therapeutic device means a device, appliance or related accessory that is sold to correct or treat a human physical disability or surgically created abnormality; if such device, appliance or related accessory has a retail value of more than one hundred dollars ($100.00), it must be sold in accordance with a written recommendation from a licensed doctor to qualify as a therapeutic device for purposes of this Article.

Total tax liability means the total of all tax, penalties or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

Except when a different municipality is named or implied, *Town* means the Town of Telluride, Colorado, a Home Rule Municipality.

Town Manager means the Town Manager of Telluride, Colorado, or an authorized designate.

Transportation includes cars, buses and all other means or instrumentalities of conveyance of passengers and their baggage, irrespective of ownership or any contract, expressed or implied, for the purpose of transporting, carrying or otherwise moving from place to place tourists, residents, skiers, the public at large or any other persons to and/or from the Town, or other points of destination and/or departure in the County and the State, and to conduct and engage in, and carry on a transportation service of passengers and baggage of every class and description, and by any means now or hereafter in use. *Transportation* also means to own, operate, maintain, hold and use, purchase, construct, establish, lease or otherwise acquire and sell, or otherwise dispose of or deal with, terminal properties, depots, freight and passenger stationhouses, storage facilities, machine and repair shops, machinery, appliances and appurtenances and any and all other property above described, which may be necessary or useful in connection with the service being rendered, whether individually, in partnership or in conjunction with any other entity, person, as the Town may determine from time to time to be in the best interests of its citizens, the public at large and the persons using the transportation service.

Use tax means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the Town.

WATS/800 Service means any outbound or inbound interstate-wide area telecommunications service or other similar service which entitles the subscriber, upon payment of a periodic charge, based upon a flat amount and/or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located.

Wholesale sales means sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to nonlicensed retailers are not wholesale sales.

Wholesaler means any person selling to retailers, jobbers, dealers or other wholesalers, for resale and not for storage, use, consumption or distribution. (Ord. 1263, 2007)

Division 2
Sales Tax

Sec. 4-2-110. Rate, imposition and collection, distribution.

(a) Sales tax. There is hereby levied in, and shall be paid to and collected by, the Town, a tax or excise upon all sales of tangible personal property and services specified in Section 4-2-130 in the amount of four and one-half percent (4½%), inclusive of a one-half percent (0.5%) sales tax for affordable housing.

(b) Imposition and collection. The tax specified herein is imposed upon the purchaser. Any seller engaged in business within the Town shall collect the tax and remit it to the Town pursuant to this Article.

(c) Distribution.

(1) Commencing on January 1, 1994, twenty percent (20%) of the unencumbered revenues collected and received by the Town through the sales tax imposed pursuant to this Article shall be dedicated to and deposited in a

separate Open Space Fund as established under Section 4-1-30 of this Code. For purposes of this Section, *unencumbered revenues* shall mean those tax revenues not already pledged or dedicated to debt service or obligations created or in effect prior to the collection of said revenues. In no event shall revenues dedicated and transferred to the Open Space Fund exceed twenty percent (20%) of the total annual sales tax revenues collected and received by the Town in any given year absent the express prior authorization of the Town Council by ordinance or resolution.

(2) Further, pursuant to the vote of the Town electorate at the November 8, 1994 municipal election, all revenues collected and received by the Town pursuant to the one-half-percent sales tax for affordable housing shall be deposited in a separate Affordable Housing Fund, which shall be used exclusively to fund and finance the development and preservation of affordable housing, including the acquisition of land therefor.

(d) The taxes imposed in this Article shall continue to be levied and collected until amended or repealed by ordinance.

(e) The taxes imposed in the Chapter shall be in addition to all other taxes imposed by law. (Ord. 1263, 2007; Ord. 1358, 2011)

Sec. 4-2-120. Sales tax schedule.

The sales taxes imposed under this Article shall be computed and collected in accordance with applicable schedules, systems and regulations, including those approved by the Executive Director of the Colorado Department of Revenue. (Ord. 1263, 2007)

Sec. 4-2-130. Transactions, items and services subject to sales tax.

(a) The tax levied by Section 4-2-110 shall apply to the price of the following:

(1) Tangible personal property that is sold, leased or rented for any duration, whether or not such property has been included in a previous transaction.

(2) Telecommunications service, access services and WATS/800 service.

(3) Installation in the Town of equipment required to receive or transmit telecommunications service, and upon telecommunications services, whether furnished by public or private corporations or enterprises for all intrastate telephone or telecommunications services, including access and WATS/800 services, sold by local telecommunications service providers originating from or received on telecommunications equipment located within the Town; provided, however, that the charge for the service is billed to a person, and any affiliates, residing within or doing business at a location within the Town.

(4) Upon gas and electric services, whether furnished by governmental, public or private corporations or enterprises, for gas and electricity furnished and sold for domestic and commercial consumption and not for resale.

(5) Upon the entire amount charged to any person for lodging services, to include the Town Campground.

(6) Upon the amount paid for all meals and beverages prepared or furnished by any restaurant, eating house, snack bar, catering service, hotel, drugstore, delicatessen or other such carry-out shop, food vending or push cart, mobile vending service, vending machines, club, resort, medical facility or other such place at which meals or food are regularly sold, or sold in conjunction with another business or enterprise.

(7) Upon admissions and cover charges if tangible personal property such as food or beverages and/or gifts are received as consideration for the amount paid.

(8) Upon the sale, lease or transfer of computer equipment, programs and software.

(9) Upon pay, cable or subscription television services sold, purchased, leased, rented, furnished or used, including any equipment rentals furnished as a part of the price or separately stated, if the charge is billed to a person residing in or doing business at a location within the Town.

(10) Coin-operated and other such vending devices that dispense food or tangible personal property.

(11) Linen and towel services.

(12) Dry cleaning services.

(13) Automotive vehicle repair services and associated automobile parts.

(14) Security devices, smoke or chemical detection equipment, hazardous substance detection equipment, whether purchased or leased.

(15) The sale of food.

(b) For the purpose of this Article, all retail sales are consummated at the place of business of the seller, provider or retailer, unless the tangible personal property sold or provided is delivered by the retailer or his or her agent to a destination outside the limits of the local taxing authority or to a common carrier for delivery to a destination outside the limits of the Town. The gross receipts from such sales shall include the delivery charges, when such charges are subject to the state sales and use tax imposed by state statutes, regardless of the place to which delivery is made.

(c) In the event a retailer or sales provider of tangible personal property has no permanent place of business in the Town, or has more than one (1) place of business, the place, places and conditions upon which the retail sales are consummated shall be the same as those in Subsection (b) above for the purpose of the sales tax imposed by this Article. (Ord. 1263, 2007)

Sec. 4-2-140. Exemptions from sales tax.

The tax levied by Section 4-2-110 shall not apply to the following:

(1) Automotive vehicles sold to nonresidents of the Town for registration outside the Town.

(2) Tangible personal property when both of the following conditions exist:

a. The sales are to individuals who reside or businesses which are located outside the Town, and

b. The articles purchased are delivered to the purchaser outside the Town by common carrier, by the conveyance of the seller or by mail, and such articles delivered are used outside the Town.

(3) The sale and purchase of medical supplies, prescription drugs for animals and therapeutic devices.

(4) Cigarettes.

(5) All direct sales to charitable organizations in the conduct of their regular charitable functions and activities, when billed to and paid for by the charitable organization.

(6) All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned or used by charitable organizations in the conduct of their regular charitable functions and activities.

(7) All direct sales to the United States Government, the State, its departments or institutions and the political subdivisions thereof in their governmental capacities only,

when billed to and paid for by the governmental entity.

(8) All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned or used by the United States Government, the State, its departments and institutions or the political subdivisions thereof in their governmental capacities only.

(9) All sales which the Town is prohibited from taxing under the Constitution or laws of the United States, or the Constitution or laws of the State.

(10) All sales of construction and building materials to a common carrier by rail operating in interstate or foreign commerce for use by such common carrier in construction and maintenance of its railroad tracks.

(11) Motor fuel upon which there has been accrued or paid either gasoline tax or special fuel tax, required by Article 27 of Title 39, C.R.S., and which is not subject to refund.

(12) Meat cattle, sheep, lambs, fish for stock purposes, swine and goats; mares and stallions for breeding purposes.

(13) Feed for livestock or poultry, seeds and orchard trees when such products are to be used in the commercial production of livestock or crops.

(14) All wholesale sales.

(15) Tangible personal property sold to a person engaged in manufacturing or processing for sale when the product being manufactured or processed is transformed in fact by the addition of the property, and such property becomes a consistent part of the finished product.

(16) Exempt commercial packaging materials.

(17) Newsprint and preprinted newspaper supplements which become attached to, or inserted in and distributed with, newspapers.

(18) Newsprint and printer's ink for use by publishers and commercial printers.

(19) Tangible personal property sold for rental or leasing inventory, including but not limited to coin-operated devices, provided that such property is not otherwise used except for customer demonstration or display.

(20) Labor sold with tangible personal property, if such labor is stated separately on the invoice from the tangible personal property sold; except that manufacturing or fabricating or other processing labor is never exempt.

(21) Construction materials, if the purchaser of such materials presents to the retailer a building permit which evidences that a use tax on such materials has been paid or is required to be paid to the Town or any other municipality.

(22) Tangible personal property sold through coin-operated devices for a price of fifteen cents ($0.15) or less.

(23) All sales of aircraft used or purchased for use in interstate commerce by a commercial airline.

(24) Forty-eight percent (48%) of the purchase price of factory-built housing, as such housing is defined in Section 24-32-703(3), C.R.S., shall be exempt from taxation under this Article.

(25) The sale of recreation services, but not equipment.

(26) If the charitable organization conducts sales of tangible personal property or concessions for a total of 12 days or less, whether consecutive or not, during a calendar year and the funds raised by the charitable organization through these sales are retained by the organization to be used in the course of the organization's charitable service, and the net proceeds from all of these events do not exceed $25,000 in that calendar year, the sales are not subject to sales tax. [Net proceeds is total gross events receipt(s) less expenses attributable to the event(s).] (Ord. 1263, 2007; Ord. 1388, 2013)

Sec. 4-2-150. Exemption; burden of proof.

The burden of proving that any retailer is exempt from collecting or paying sales tax shall be on the retailer under such reasonable requirements of proof as the Town Manager or the Finance Director may prescribe. (Ord. 1263, 2007)

Sec. 4-2-160. Deductions from gross sales.

(a) Deductions from gross sales. If included in reported gross sales, the following are deducted from gross sales:

(1) Refunds. The price of tangible personal property or taxable services returned by a purchaser when the price and the sales tax collected are refunded in cash or by credit.

(2) Bad debts charged off. Taxable sales which are represented by accounts not secured by conditional sales contract, rental purchase contract or security interest, and which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the State; provided, however, that if such amounts are thereafter collected by the taxpayer, a tax shall be paid on the amount so collected.

(3) Interest and finance charges. The amount of interest or finance charges on credit extended in connection with any sale, if the interest or finance charges are separately stated from the price.

(b) Credits from tax due:

(1) Vendor's fee. A retailer's collection and remittance expense equal to one and thrirty-five one-hundredths (1 35/100%) of the sum of the sales tax computed, and any excess tax collected may be taken as a credit against sales tax paid, on or before the due date. Such vendor's fee shall be forfeited for any sales tax that is not reported and paid by the due date. Forfeiture of the vendor's fee shall be prima facie evidence that the taxpayer was in violation of this Article.(Ord. 1310, 2009)

(2) Amounts previously paid pursuant to a tax levied by a municipality may be credited against the tax due on transactions or items other than construction materials as follows:

a. When the present owner or user has previously paid a legally imposed sales or use tax on the transaction or item; except that the amount of such credit shall not exceed the amount of tax on such transaction or item computed at the rate established herein.

b. When the present owner or user of construction equipment has not previously paid a legally imposed sales or use tax attributable to any one (1) municipality on the full price of such equipment, the credit shall be the aggregate value of all such taxes paid on such equipment up to the amount of tax due to the Town on such equipment. (Ord. 1263, 2007)

Sec. 4-2-170. Credit sales.

(a) In the case of a sale upon credit, or a contract for sale where the price is paid in installments, and title does not pass until a future date, or a sale secured by a chattel mortgage or a conditional sale, there shall be paid upon each payment that portion of the total tax which the amount paid bears in relation to the total purchase price.

(b) If a retailer transfers, sells, assigns or otherwise disposes of an account receivable, then he or she shall be deemed to have received the full balance of the consideration for the original sale and shall be liable for the remittance of the sales tax on the balance of the total sale price not previously reported; except that such transfer, sale, assignment or other disposition of an account receivable by a retailer to a closely held subsidiary shall not be deemed to require the retailer to pay

the sales tax on the credit sale represented by the account transferred prior to the time that the customer makes payment on said account. (Ord. 1263, 2007)

Sec. 4-2-180. Acquisition inception or cessation of business.

(a) Acquisition of existing business.

(1) Seller's responsibilities: Any person engaged in business in the Town who sells such business shall file a final return. The reporting period shall end on the date of the transfer of ownership of the business in question.

(2) Purchaser's responsibilities:

a. Any person who purchases an existing business shall be responsible for determining whether there is any tax due from that business and shall withhold from the initial purchase payment an amount sufficient to cover all such tax due, unless the former owner produces a receipt from the Town showing that all tax due has been paid or a certificate from the Town indicating that there is no tax due.

b. Any amount so withheld shall be paid to the Town within ten (10) days of the date of the sale of the business.

c. Any purchaser who fails to withhold such tax due or fails to pay to the Town the amount so withheld within the ten-day period shall, as well as the seller, be liable for any tax due.

(b) Cessation of business. Every person engaged in business in the Town who quits doing business in the Town shall file a final return. The reporting period of such return shall end on the last day of business in the Town. (Ord. 1263, 2007)

Sec. 4-2-190. Retailer responsible for collection and payment of tax.

Every retailer engaged in business in the Town shall be liable and responsible for payment of an amount equivalent to the taxable sales multiplied by the sales tax rate established by Section 4-2-30.

(1) Tax added to price. Retailers shall add the tax imposed, or the average equivalent thereof, to the price, showing such tax as a separate and distinct item. Except as provided in this Paragraph, no retailer shall advertise, hold out or state to the public or to any consumer, either directly or indirectly, that the sales tax or any part thereof shall be assumed or absorbed by the retailer, or that it will not be added to the price or, if added, that it or any part thereof shall be refunded.

a. Nothing herein contained shall be deemed to prohibit any retailer selling malt, vinous or spirituous liquors by the drink from electing to include in his or her purchase price any tax levied under this Section.

b. Sales tax may be included in the price of items sold from coin-operated devices or the price of utilizing such devices.

(2) Tax constitutes debt. Any tax added to the price by a retailer shall constitute a debt from the purchaser to the retailer until paid and shall be recoverable at law in the same manner as other debts.

(3) Excess tax. No retailer shall retain any sales tax collected in excess of the tax computed, but shall report such excess collections on the return for the period in which it was collected, and include it in the calculation of tax due.

(4) Disputed tax. When a dispute arises between a retailer and a purchaser who claims that the sale is exempt from the tax, the retailer

shall collect, and the purchaser shall pay, such tax. The purchaser may submit a claim for refund to the Town within sixty (60) days of the date of purchase. Any such tax refunded by the Town will be paid directly to the purchaser. (Ord. 1263, 2007)

Sec. 4-2-200. Trust status of tax in possession of retailer.

All sales tax collected by any retailer shall be the property of the Town and remain public money in the hands of such retailer, who shall hold the same in trust for the sole use and benefit of the Town until paid to the Town. (Ord. 1263, 2007)

Sec. 4-2-210. Filing returns; due date.

(a) Every taxpayer shall file a return, whether or not a tax is due, and remit any tax due to the Town on or before the twentieth day of the month following the reporting period. Failure to receive a return does not relieve a taxpayer of its legal responsibility for filing a return on or before the due date.

(b) A retailer engaged in business in the Town at two (2) or more locations, whether inside or outside the Town, who collects sales tax, may file one (1) return for all such locations, when accompanied by a supplemental schedule showing the gross sales and net taxable sales for each location.

(c) For good cause shown in a written request of a taxpayer, the Finance Director may extend the time for making returns and paying the tax due. Such good cause shall not include the retailer's inability to pay taxes due to the Town due to other debts incurred by the retailer or his or her business.

(d) No person shall make any false statement in connection with a return. (Ord. 1263, 2007)

Sec. 4-2-220. Reporting periods.

(a) Unless otherwise approved by the Town, taxpayers must file returns and pay taxes as follows:

(1) Upon approval of the Finance Director, a taxpayer whose monthly tax is ten dollars ($10.00) or less may file returns and pay tax annually, semi-annually, quarterly or monthly.

(2) Upon approval of the Finance Director, a taxpayer whose monthly tax due is more than ten dollars ($10.00) and less than twenty dollars ($20.00) may file returns and pay tax semi-annually, quarterly or monthly.

(3) Upon approval of the Finance Director, a taxpayer whose monthly tax due is more than twenty dollars ($20.00) and less than forty dollars ($40.00) may file returns and pay tax quarterly or monthly.

(4) A taxpayer whose monthly tax due is forty dollars ($40.00) or more shall file returns and pay tax monthly.

(5) For the purpose of the timing of the filing of returns, the amounts considered in Paragraphs (1) through (4) must be consistent for a period of three (3) consecutive months to be approved for any schedule other than reporting monthly.

(b) The reporting period for a final return shall end on the date of the transfer of ownership or cessation of the business.

(c) The reporting period for a vendor selling tangible personal property at a temporary location or site of a special event within the Town shall end on the day the temporary location closes or special event concludes.

(d) If any taxpayer who has been granted permission to file returns and pay tax on other than a monthly basis becomes delinquent, authorization for such alternate method of reporting may be

revoked by the Finance Director, and immediately following notice of such revocation, the taxpayer shall file returns and pay tax on a monthly basis as if the alternate method of reporting and paying the tax had never been granted. (Ord. 1263, 2007)

Sec. 4-2-230. Duty to keep books and records.

(a) Every person engaged in business in the Town shall keep and preserve for at least three (3) years after the date of the taxable transaction suitable records which allow the accurate determination of the tax due.

(b) Every person shall provide all such records for audit by the Town during normal business hours. (Ord. 1263, 2007)

Sec. 4-2-240. License required.

(a) Except as provided in this Article, any person engaged in business in the Town must first obtain a sales tax license. No sales tax license shall be required for any governmental agency or charitable organization which is exempt from the sales tax under this Article. However, although such organizations may be exempt from paying sales taxes on the purchases of tangible personal property, the collection, reporting and payment of appropriate sales taxes to the Town is required on the sale or auction of tangible personal property even when used for the purpose of not-for-profit fundraising, whether or not a sales tax license is required or has been obtained.

(b) When business is transacted by one (1) person at two (2) or more separate locations inside the Town, a separate license for each place of business shall be required. (Ord. 1263, 2007)

Sec. 4-2-250. License; application and content.

(a) Persons for whom a license is required shall first submit to the Finance Director an application stating the name and address of the person requesting such license; the name of the business being licensed and the character thereof; the location, including the street number of such business; and such other information as the Finance Director may require.

(b) Licenses which are granted shall be issued without fee by the Finance Director on January 1 of each year, and provided to the license holder as soon as practical thereafter.

(c) Licenses shall be in effect for one (1) year and shall be renewed upon renewal of the general business license or upon completion of a license renewal request.

(d) Each license shall be numbered and shall show the name, mailing address, location and character of business of the license, and shall be posted in a conspicuous place at the business location for which it is issued.

(e) No license shall be transferable. After any sale or acquisition of a business, the new owner shall apply for a new license. (Ord. 1263, 2007)

Sec. 4-2-260. License cancellation or revocation.

(a) Cancellation. The Finance Director may cancel any license:

(1) Upon receipt of a written notice that the taxpayer is no longer engaged in business in the Town.

(2) Upon the taxpayer's failure to respond to three (3) consecutive notices of delinquency.

The Finance Director shall give notice to the taxpayer that the license has been cancelled. Notice shall be in writing, served to the taxpayer in person by a Town Marshal, delivered by certified mail or any combination of those notification procedures.

(b) Revocation. The Finance Director may, after a reasonable notice and a full hearing, issue a finding and order to revoke the license of any per-

son found to have violated any provision of this Article.

(c) Appeal. Any person may appeal a finding and order revoking their license in District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(d) No taxpayer shall continue engaging in business in the Town after his or her license has been cancelled or revoked. (Ord. 1263, 2007)

Sec. 4-2-270. Authority of Finance Director.

The administration of this Article is hereby vested in the Finance Director, except where otherwise noted.

(1) Forms and procedures. The Finance Director shall prescribe forms and administrative procedures for the ascertainment, assessment and collection of tax.

(2) Regulations. The Finance Director may formulate and promulgate, after hearing, appropriate and additional regulations to effectuate the purpose of this Article.

(3) Additional information. The Finance Director may require any person to make additional returns, render statements, furnish records or make informational reports to determine whether or not such person is liable for payment or collection of the tax.

(4) Subpoenas. The Finance Director may issue a subpoena to command a person to attend and give testimony or to produce books, records or accounts.

a. Any subpoenas issued under the terms of this Article shall be served as set forth in the Colorado Rules of Civil Procedure, including payment of witness fees. When the witness is subpoenaed at the insistence of the Town, such fees shall be paid by the Town. When a witness is subpoenaed at the insistence of the taxpayer, the Finance Director may require that the cost of the service of the subpoena and the fee be paid by the taxpayer. In the discretion of the Finance Director, a deposit to cover the cost of the subpoena and witness fees may be required.

b. If a subpoena issued by the Finance Director is duly served and the respondent fails to attend, give testimony or produce books, accounts or records as commanded, the Finance Director may request the Town Attorney to file a motion with the Municipal Court for an order enforcing the subpoena.

(5) Oaths. The Finance Director is authorized to administer oaths and take testimony at the hearing.

(6) Agents. The Finance Director may designate agents to assist in the performance of the duties and responsibilities set forth in this Article.

(7) Partial payments. The Finance Director may accept any partial payment made and apply such payments toward the tax due. Deposit of such payments shall not in any way imply that the remaining balance is or has been abated.

(8) Notices. Notices required by this Article shall be in writing and delivered in person by the Finance Director or an agent, sent postage paid by certified mail to the last known address of the taxpayer or served in person by an officer of the Town Marshal's office. (Ord. 1263, 2007)

Sec. 4-2-280. Audit of record.

(a) For the purpose of ascertaining the correct amount of tax due from any person engaged in business in the Town, the Finance Director may authorize an agent to conduct an audit by examining any relevant books, records and accounts of such person.

(b) All books, accounts and records shall be available at any time during regular business hours for examination by an authorized agent of the Finance Director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested by the Finance Director, the Finance Director may issue a subpoena to require that the taxpayer or his or her representative attend a hearing or produce any such books, accounts or records for examination.

(c) Any tax deficiency or overpayment ascertained through audit shall be computed by one (1) or more of the following methods as the Finance Director deems appropriate:

(1) By comparing the tax reported and paid on returns to the actual tax due.

(2) By identifying transactions on which the tax was not properly or accurately collected or paid.

(3) By identifying other irregularities in the calculation of tax due.

(d) Any charitable organization claiming exemption under the provisions of this Article is subject to audit in the same manner as any other person engaged in business in the Town. (Ord. 1263, 2007)

Sec. 4-2-290. Coordinated audit.

(a) Any taxpayer licensed in the Town pursuant to this Article and holding a similar sales tax license in at least four (4) other Colorado municipalities that administer their own sales tax collection may request a coordinated audit as provided herein.

(b) Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Finance Director, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage of time-based limitation upon the Town's right to recover tax owed by the taxpayer for the audit period.

(c) Except as provided in Subsection (g) below, any taxpayer who submits a complete request for a coordinated audit and promptly signs a waiver of any statute of limitations may be audited by the Town during the twelve (12) months after such a request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

(d) If the Town desires to participate in the audit of a taxpayer who submits a complete request for a coordinated audit pursuant to Subsection (c) above, the Finance Director shall so notify the finance director or other proper authority of the municipality whose notice of audit prompted the taxpayer's request for a coordinated audit. The Finance Director shall cooperate with other participating municipalities in arranging the time in which the coordinated audit will be conducted, the period of time to be covered by the audit and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

(e) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the Town, the Finance Director shall facilitate arrangements between the Town and other municipalities participating in the coordinated audit, unless and until an official from some other participating municipality agrees to assume this responsibility. The Finance Director shall cooperate with other participating municipalities to, whenever practical, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on

behalf of the participating municipalities. Information obtained by, or on behalf of, those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

(f) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the Town, the Finance Director shall, once arrangements for the coordinated audit between the Town and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period of time to be audited and the records most likely to be required by the participating municipalities for completion of the coordinated audit. The Finance Director shall also propose a schedule for the coordinated audit.

(g) The coordinated audit procedure set forth in this Section shall not apply:

(1) When the proposed audit is a jeopardy audit.

(2) To audits for which a notice of audit was given prior to the effective date of the ordinance codified herein.

(3) When a taxpayer refuses to promptly sign a waiver of any pertinent statutes of limitations.

(4) When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided for in Subsection (b) above. (Ord. 1263, 2007)

Sec. 4-2-300. Tax information confidential.

All specific information gained under the provisions of this Article which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through an audit, shall be treated by the Town and its officers, employees or legal representatives as confidential.

(1) Except as directed by judicial order or as provided in this Section, no Town officer, employee or legal representative shall divulge any confidential information. Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers or the inspection of such confidential information by an officer, employee or legal representative of the Town.

(2) If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information that is directly involved in the action or proceeding. (Ord. 1263, 2007)

Sec. 4-2-310. Overpayment from returns.

If the amount remitted with the return is more than the tax due as computed from information in such return, the taxpayer shall be notified.

(1) If the overpayment is at least fifteen dollars ($15.00), a notice of overpayment will be issued. After examining such notice, the taxpayer may either submit a claim for a refund or report the correct tax due by filing an amended return. No refund of such overpayment shall be paid unless a signed claim for a refund is submitted on or before the thirtieth day after the date of notice of overpayment.

(2) If the overpayment is less than fifteen dollars ($15.00), it shall be credited to the tax due for the next reporting period. (Ord. 1263, 2007)

Sec. 4-2-320. Tax overpayment determined through audit.

If the Town ascertains through audit of a taxpayer's records that the tax due is less than the full amount paid, a notice of overpayment shall be issued. Such notice will serve as documentation

for a claim of refund, if such claim is signed and submitted by the taxpayer within thirty (30) days of the date of the notice of overpayment. (Ord. 1263, 2007)

Sec. 4-2-330. Refunds of disputed tax.

Refunds of tax paid to a retailer by a purchaser who claims that the sale is exempt from the tax may be requested by such purchaser by signing and submitting a claim for refund on or before sixty (60) days from the date of such purchase. (Ord. 1263, 2007)

Sec. 4-2-340. Claim for refund.

No tax overpayment except as provided in Paragraph 4-2-310(2) above shall be refunded unless a claim for refund is signed and submitted to the Town by the taxpayer.

(1) An application for refund of tax shall:

a. Be made on a claim for refund form furnished by the Town.

b. Be signed by the taxpayer.

c. Include adequate documentation of the claim.

(2) The Finance Director shall examine the claim for refund and give written notice to the taxpayer of the amount to be refunded or denied.

(3) Refunds are not assignable. The right of any person to obtain a refund pursuant to this Article shall not be assignable.

(4) No person shall make any false statement in connection with a claim for refund. (Ord. 1263, 2007)

Sec. 4-2-350. Intercity claims for recovery.

The intent of this Section is to streamline and standardize the procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect and remit sales and use taxes to the Town.

(1) As used herein, *claim for recovery* means a claim for reimbursement of sales and use taxes paid to the wrong jurisdiction.

(2) When it is determined by the Finance Director that sales and use tax owed to the Town has been reported and paid to another municipality or jurisdiction, that town shall promptly notify the vendor that taxes are being improperly collected and remitted and that as of the date of the notice the vendor must cease improper tax collections and remittances.

(3) The Town may make a written claim for recovery directly to the municipality or jurisdiction that received the tax and/or penalty and interest owed to the Town or, in the alternative, may institute procedures for the collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the Town. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality or jurisdiction, evidence to substantiate the claim and a request that the municipality approve or deny, in whole or in part, the claim within ninety (90) days of its receipt. The municipality or jurisdiction to which the Town submits a claim for recovery may, for good cause, request an extension of time to investigate the claim. The approval of such extension by the Town shall not unreasonably be withheld.

(4) Within ninety (90) days after receipt of a claim of recovery, the municipality or jurisdiction receiving taxes in error shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied, in whole or in part,

including the reasons for the decision. If the claim is approved in whole or in part, the municipality receiving taxes in error shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of the approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

(5) A municipality or jurisdiction claimed to be receiving taxes in error may deny a claim for recovery on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

(6) The period subject to a claim for recovery shall be limited to the thirty-six-month period prior to the date the municipality or jurisdiction which was wrongly paid the tax receives the claim for recovery. (Ord. 1263, 2007)

Sec. 4-2-360. Underpayments from returns.

If the amount remitted with a return is less than the tax computed from information in such return, the taxpayer shall be notified.

(1) If the underpayment is at least fifteen dollars ($15.00), a notice of assessment shall be issued.

(2) If the underpayment is less than fifteen dollars ($15.00), it shall be added to the tax due for the next reporting period. (Ord. 1263, 2007)

Sec. 4-2-370. Tax deficiencies from failure to file.

(a) If any taxpayer neglects or refuses to obtain a license, the amount of tax due shall be estimated, based upon such information as may be available, and a notice of assessment shall be issued.

(b) If any taxpayer neglects or refuses to file a return by the date due, the tax due shall be estimated, based on such information as may be available, and a notice of assessment shall be issued.

(c) Estimated tax due shall be adjusted if a return reporting actual tax due is filed on or before the payment date of the notice of assessment. (Ord. 1263, 2007)

Sec. 4-2-380. Tax deficiencies determined through audit.

If the Town determines through an audit of the taxpayer's records that the tax due has not been fully reported or paid by the applicable due date, a notice of assessment shall be issued. (Ord. 1263, 2007)

Sec. 4-2-390. Penalties.

A penalty shall be levied for any tax deficiency.

(1) Penalty for late payment. For transactions consummated after the effective date of the ordinance codified herein, the penalty for late payment shall be fifteen dollars ($15.00) or ten percent (10%) of the tax deficiency, whichever is greater. Additionally, one percent (1%) of the tax deficiency per month from the date when due, not exceeding eighteen percent (18%) in the aggregate, shall be assessed.

(2) Penalty for fraud. If any tax deficiency is due to fraud or intent to evade the tax, the penalty shall be one hundred percent (100%) of the total tax deficiency.

(3) Abatement of penalty. Any penalty assessed under this Section may be abated by the Finance Director, with the approval of the Town Manager, if the taxpayer submits a written request for such abatement on or before the payment date of the applicable notice of assessment, and if the Finance Director and the

Town Manager find good cause thereof. (Ord. 1263, 2007)

Sec. 4-2-400. Interest.

Interest shall be levied on any tax deficiency.

(1) Interest shall be calculated for each month or portion of a month from the due date that a tax deficiency remains unpaid. For transactions consummated after the effective date of the ordinance codified herein, the monthly interest rate shall be determined by the Commissioner of Banking pursuant to Section 39-21-110.5, C.R.S.

(2) When a timely protest is made to a notice of assessment, no additional interest shall be assessed on any tax upheld by the Finance Director for the period between the due date of such assessment and the payment date established in an informal meeting or thirty (30) days after the date of a finding of fact, conclusion or a decision issued after a hearing.

(3) Interest properly assessed on any tax deficiency shall not be abated. (Ord. 1263, 2007)

Sec. 4-2-410. Notice of assessment.

The Finance Director or specifically authorized agent shall issue a notice of assessment for any tax deficiency, penalties or interest due.

(1) Notices of assessment shall be in writing and delivered in person or sent postage paid by first-class mail to the last known address of the taxpayer.

(2) The payment due date for the tax due pursuant to a notice of assessment shall be twenty-one (21) days after the date of the notice of assessment.

(3) The Finance Director, with the consent of the Town Manager, may abate a portion of any tax deficiency if good cause therefor exists. (Ord. 1263, 2007)

Sec. 4-2-420. Protest of notice of assessment or denial of refund.

(a) Any notice of assessment may be protested by the taxpayer to whom it is issued.

(1) A protest of a notice of assessment issued to a vendor or taxpayer for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing to the Finance Director within twenty (20) calendar days from the date of the notice of assessment. Any such protest shall identify the amount of tax disputed and the basis for the protest.

(2) When a timely protest is made, no further enforcement action will be instituted by the Town for the portion of the assessment being protested unless the taxpayer fails to pursue the protest in a timely manner.

(b) Any denial of a claim for a refund may be protested by the taxpayer who submitted the claim. A protest of a denial of a refund shall be submitted in writing to the Finance Director within twenty (20) calendar days from the date of the denial of the refund, and shall identify the amount of the refund requested and the basis for the protest.

(c) Any timely protest entitles a taxpayer to a hearing under the provision of this Article.

(1) If, in the opinion of the Finance Director, the issues involved in such protest are not a matter of interpretation or may be resolved administratively, the Finance Director may recommend an informal meeting with the taxpayer to resolve the issues.

(2) Participation in such an informal meeting does not prevent either the taxpayer or the Town from holding a formal hearing if the dis-

pute cannot be resolved by such meeting. (Ord. 1263, 2007)

Sec. 4-2-430. Hearings.

(a) The Town shall commence a hearing within ninety (90) days after the Town's receipt of the taxpayer's written protest; except that the Town may extend such period if the delay is requested by the taxpayer. The Finance Director shall notify the taxpayer in writing of the time and place of such hearing.

(b) Every hearing shall be held within the Town and before the Finance Director and/or the Town Manager.

(c) The taxpayer may assert any facts, make any arguments and file any briefs and affidavits which, in the opinion of the taxpayer, are pertinent to the protest. The filing of briefs shall not be required.

(d) Based on the evidence presented at the hearing, the Finance Director shall issue a finding of fact, conclusions and decision which may modify or abate in full the tax, penalties and/or interest protested at the hearing, approve a refund or uphold the assessment.

(e) After such hearing, the taxpayer shall not be entitled to a second hearing on the same notice of assessment or denial of refund.

(f) Unless the decision of the Finance Director is appealed as provided in this Article, the remaining tax due, if any, shall be paid on or before thirty (30) days after the date of the finding of fact, conclusions and decision. (Ord. 1263, 2007)

Sec. 4-2-440. Appeals.

(a) Subsequent to a hearing, the taxpayer may appeal the decision of the Finance Director in District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(b) Upon appeal to the District Court, the taxpayer shall either file with the Finance Director a bond for twice the unpaid amount or deposit the unpaid amount with the Finance Director.

(c) An appeal of a final decision of the Finance Director in a hearing held pursuant to this Article shall be commenced within thirty (30) days of such decision. (Ord. 1263, 2007)

Sec. 4-2-450. Lien for tax due.

(a) Issuance. If any tax due is not paid by the payment date of a notice of assessment, the Finance Director may issue a notice of lien on the real and personal property of the taxpayer. Such lien shall specify the name of the taxpayer, the tax due, the date of accrual thereof and the location of the property, and shall be certified by the Finance Director.

(b) Filing. The notice of lien shall be filed in the office of the clerk and recorder of any county in the State in which the real and personal property of the taxpayer is located. Such filing shall create a lien on such property in that county and constitute a notice thereof.

(c) Priority. The attachment and priority of such lien shall be as follows:

(1) Such lien shall be a first and prior lien upon the goods and business fixtures owned or used by any taxpayer, including those under lease, installment sale or other contract agreement, and shall take precedence on all such property over all other liens or claims of whatsoever kind or nature.

(2) Such lien on the real and tangible personal property of the taxpayer that is not goods, stock in trade and business fixtures shall be a first and prior lien except as to preexisting claims or liens of a bona fide mortgagee, pledge, judgment creditor or purchaser whose rights have attached and been perfected prior to the filing of the notice of lien.

(3) The personal property of an owner who has made a bona fide lease to a taxpayer shall be exempt from the lien created in this Subsection if such property can reasonably be identified from the lease description and if the lessee is given no right to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease if the lease is recorded with the county clerk and recorder of the county where the property is located or based.

(4) Motor vehicles which are properly registered in this State, showing the lessor as owner thereof, shall be exempt from such lien; except that such lien shall apply to the extent that the lessee has earned reserve, allowance for depreciation not to exceed the fair market value or similar interest which is or may be credited to the lease.

(5) Where a lessor and lessee are blood relatives or relatives by law or have twenty-five percent (25%) or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for the purposes of this Section.

(d) Enforcement against real property. If a notice of lien is filed against any real property, the Finance Director may direct the Town Attorney to file a civil action to enforce such lien. The court may determine the interest in the property of each party, decree a sale of the real property and distribute the proceeds according to such findings. Procedure for the action and the manner of sale, the period for and manner of redemption from the sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires. (Ord. 1263, 2007)

Sec. 4-2-460. Performance of lien.

(a) Any lien for tax due shall continue until a release of lien is filed by the Finance Director.

(b) Any person who purchases or repossesses real or personal property upon which a lien has been filed by the Finance Director for tax due shall be liable for the payment of such tax due up to the value of the property taken or acquired. (Ord. 1263, 2007)

Sec. 4-2-470. Release of lien.

Upon payment of the tax due or enforcement of the lien, the Finance Director shall file a release of the lien with the county clerk and recorder of the county in which the lien was filed. (Ord. 1263, 2007)

Sec. 4-2-480. Civil action to recover tax due.

(a) Any unpaid tax due shall constitute a debt of the taxpayer to the Town, and the Finance Director or Town Manager may direct the Town Attorney to file a civil action to collect such taxes due.

(b) The return filed by a taxpayer or the notice of assessment issued by the Finance Director shall be prima facie proof of the tax due.

(c) If a judgment is obtained by the Town, collection of the tax due may be made by attachment, garnishment or other means established by law. When attachment is sought, no bond shall be required of the Finance Director, nor shall any sheriff require of the Finance Director an indemnity bond for executing the writ of attachment or writ of execution upon any judgment. (Ord. 1263, 2007)

Sec. 4-2-490. Jeopardy assessment.

(a) Issuance. If the collection of any tax due from a taxpayer, whether or not previously assessed, will be jeopardized by delay, the Town Manager may declare the taxable period immediately terminated, require the Finance Director to determine the tax and issue a jeopardy assessment and demand payment. Any tax so assessed shall be due and payable immediately.

(b) Security for payment. Enforcement of a jeopardy assessment and demand for payment may be stayed if the taxpayer gives security for payment which is satisfactory to the Town Manager.

(c) Dispute of jeopardy assessment. If, in the opinion of the taxpayer, the jeopardy assessment is not for the correct amount of the tax due, the taxpayer shall pay the tax due as assessed and submit a claim for refund to the Town. (Ord. 1263, 2007)

Sec. 4-2-500. Distraint and sale.

(a) Unless such property is exempt by state statute from distraint and sale, the Town Manager may sign and issue a warrant directed to any employee or agent of the Town, or any sheriff of any county in the State, commanding the distraint and sale of personal property of the taxpayer on which a lien has been attached for payment of the tax due.

(1) Such warrant may be issued if such tax due is not paid on or before twenty-one (21) days from the payment date of a notice of assessment and no protest of such assessment has been timely filed.

(2) Such warrant may be issued immediately if a jeopardy assessment and demand for payment has been issued.

(b) If the taxpayer does not volunteer entry into the premises, the Town Manager may apply to the Municipal Court for a warrant authorizing any employee of the Town to search for and distrain property located within the Town to enforce the collection of the tax due.

(1) The Town Manager shall demonstrate to the Municipal Court that the premises to which entry is sought contains property that is subject to distraint and sale for tax due.

(2) If a jeopardy assessment and demand for payment has been issued, the Town Manager shall specify to the Municipal Court why collection of the tax will be jeopardized.

(3) The procedures to be followed in issuing and executing a warrant pursuant to this Subsection shall comply with Rule 241 of the Colorado Municipal Court Rules of Procedure.

(c) Disposal of distrained property:

(1) A signed inventory of the property distrained shall be made by the Town or its agent. Prior to the sale, the owner or possessor shall be served with a copy of said inventory, a notice of the sum of the tax due and related expenses incurred to date and the time and place of sale.

(2) A notice of time and place of the sale, together with a description of the property to be sold, shall be published in a newspaper of general circulation within the Town where distraint is made or, in lieu thereof and in the discretion of the Finance Director, the notice shall be posted at the courthouse of the county where the distraint is made and in at least two (2) other places of general public view within such county.

(3) The time fixed for the sale shall not be less than ten (10) days nor more than sixty (60) days from the date of distraint. The sale may be postponed by the Town or its agent for no more than ninety (90) days from the date originally fixed for the sale.

(4) The property shall be sold at public auction for not less than a fair minimum price, and if the amount bid for the property is less than the fair minimum price so fixed, the property may be declared to be purchased by the Town, and the Town shall file a release of lien thereon. If the property is purchased by the Town, such property may be disposed of in the same manner as other Town property, and the lien thereon shall be released.

(5) The property may be offered first by bulk bid, then subsequently for bid singularly or by lots, and the Town or its agent may accept the higher bid.

(6) The property offered for sale may be redeemed if the owner or possessor or other person holding an unperfected chattel mortgage or other right of possession pays the tax due and all collection costs no less than twenty-four (24) hours before the sale.

(7) The Town or its agent shall issue to each purchaser a certificate of sale which shall be prima facie evidence of its right to make the sale and transfer to the purchaser of all right, title and interest of the taxpayer in and to the property sold.

a. When the property sold consists of certificates of stock, the certificate of sale shall be notice to any corporation, company or association to record the transfer on its books and records.

b. When the property sold consists of securities or other evidence of debt, the certificate of sale shall be good and valid evidence of title.

(8) Any surplus remaining after satisfaction of the tax due, plus any costs of making the distraint and advertising the sale, may be distributed by the Town, first to other jurisdictions which have filed liens or claims of sales and use or personal property ad valorem taxes, and second, to the owner or other person having a legal right thereto.

(9) The Finance Director shall submit a written account of the sale to the Town Manager.

(d) Exempt property. Property of the taxpayer subject to distraint shall include the personal property of the taxpayer and the goods, stock in trade and business fixtures owned or used by any taxpayer, including those used under lease, installment sale or other contract arrangement. Property exempt from distraint and sale shall include the personal property described in Subsection 4-2-370(c) of this Article.

(e) Return of the property. The taxpayer or any person who claims an ownership interest or right of possession in the distraint property may petition the Town Manager, or the Municipal Court if the property was seized pursuant to warrant issued by the Court, for return of the property.

(1) The grounds for return of the property shall be that the person has a perfected interest in such property which is superior to the Town's interest, or that the property is exempt from the Town's lien.

(2) The finder of fact shall receive evidence on any issue of fact necessary to the decision of the petition. If the finder of fact determines by a preponderance of the evidence in favor of the taxpayer or other petitioner, the property shall be returned. (Ord. 1263, 2007)

Sec. 4-2-510. Status of tax due in bankruptcy and receivership.

Whenever the business or property of any taxpayer is subject to receivership, bankruptcy or assignment for the benefit of creditors or distrained for property taxes, all tax due shall be a prior and preferred lien against all the property of the taxpayer. No sheriff, receiver, assignee or other officer shall sell the property of any such taxpayer under process or order of the Finance Director or Town Manager for less than the amount of the tax due. The officer shall pay any tax due before making payment to any judgment, creditor or other claimant. (Ord. 1263, 2007)

Division 3
Use Tax

Sec. 4-2-610. Use tax levied.

There is to be levied, and there shall be collected, a use tax on every person, firm, corporation or association for the privilege of storing, using or otherwise consuming within the Town any tangible personal property, construction or building materials, motor or other vehicles for which registration is required, purchased at retail outside the Town. The use tax shall be imposed and collected at a rate of four and one-half percent (4½%), inclusive of a one-half-percent use tax for affordable housing, of the storage costs or purchase price at retail of the tangible personal property, construction or building materials, motor or other vehicles, purchased outside the Town and stored, used or otherwise consumed in the Town. Except as may otherwise be provided in this Article, the use tax shall be due and payable at the time the property is brought into the Town. Such tax is payable and shall be collected by the Town Clerk, Finance Director or an authorized agent. (Ord. 1263, 2007)

Sec. 4-2-620. Revenue dedication.

(a) Except for the revenue as described in Subsection (b) below, fifty percent (50%) of the proceeds derived from the use tax imposed herein shall be pledged for capital improvements of the Town or for payment of any obligations entered into for such purposes. Said fifty percent (50%) of such proceeds of the use tax shall be deposited immediately upon being received or collected into a special fund entitled the Capital Improvements Fund. Commencing January 1, 1994, twenty percent (20%) of the unencumbered revenues collected and received by the Town through the use tax imposed pursuant to this Article shall be dedicated to the Open Space Fund as established under Section 4-1-30 of this Chapter. For purposes of this Section, *unencumbered revenues* shall mean those tax revenues not already pledged or dedicated to debt service or obligations created or in effect prior to the collection of said revenues. In no event shall revenues dedicated and transferred into the Open Space Fund exceed twenty percent (20%) of the total annual use tax revenues collected and received by the Town in any given year absent express prior authorization of the Town Council by ordinance or resolution.

(b) Pursuant to the vote of the Town electorate at the November 8, 1994 municipal election, all revenues collected and received by the Town pursuant to the one-half-percent use tax for affordable housing shall be deposited in a separate Affordable Housing Fund which shall be used exclusively to fund and finance the development and preservation of affordable housing, including the acquisition of land therefor. (Ord. 1263, 2007)

Sec. 4-2-630. Exemptions.

This use tax shall not apply to:

(1) 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 and described in this Article.

(2) The storage, use or consumption of any tangible personal property purchased for resale in the Town, either in its original form or as an ingredient of a manufactured or compounded product in the regular course of business.

(3) 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) The storage, use or consumption of tangible personal property by the United States Government or the State, or their institutions or political subdivisions, in their governmental capacities only or by religious or charitable

corporations in the conduct of their regular religious or charitable functions.

(5) The storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use, any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof.

(6) The storage, use or consumption of any item of tangible personal property, the sale or use of which has already been subjected to a sales or use tax of another statutory or home rule municipality equal to or in excess of the tax imposed by this Article. A credit shall be granted against the use tax imposed by this Article with respect to the storage, use or consumption in the Town of tangible personal property purchased in another municipality equal to the tax paid by the taxpayer by reason of the imposition of a sales tax by the previous municipality on the purchase or use of the property. The amount of credit shall not exceed the tax as imposed by this Article.

(7) The storage, use or consumption of tangible personal property and household effects acquired outside of the Town and brought into the Town by a nonresident acquiring residency.

(8) 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 the motor vehicle outside of the Town.

(9) The 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 was entered into prior to the effective date of the use tax.

(10) The use or consumption of any construction and building materials required or made necessary in the performance of any construction bid let or entered into at any time prior to the effective date of the ordinance codified in this Article.

(11) The storage of construction and building materials.

(12) The use or consumption of tangible personal property within the Town which occurs more than three (3) years after the most recent sale of the property if, within the three (3) years following such sale, the property has been significantly used within the State for the principal purpose for which it was purchased. (Ord. 1263, 2007)

Sec. 4-2-640. Proration as applied to certain construction equipment.

(a) Construction equipment which is located within the boundaries of the Town for a period of more than thirty (30) consecutive days shall be subjected to the full applicable use tax of the Town.

(b) With respect to transactions consummated on or after January 1, 1986, construction equipment which is located within the boundaries of the Town for a period of thirty (30) consecutive days shall be subjected to the Town's use tax in an amount calculated as follows: the purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one (1) and the denominator of which is twelve (12), and the product shall be multiplied by the use tax rate as established by this Article.

(c) Where the provisions of Subsection (b) above are utilized, the credit provisions of Subsection (f) below apply at such time as the

aggregate sales taxes legally imposed by and paid to other municipalities on any such equipment equal the tax as imposed by this Article.

(d) In order to avail himself or herself of the provision of Subsection (b) above, the taxpayer shall comply with the following procedure:

(1) Prior to or on the date the equipment is located within the boundaries of the Town, the taxpayer shall file with the Town Clerk or the Finance Director an equipment declaration on a form provided by the Town. The declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed from the boundaries of the Town, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment and shall include such other information as reasonably deemed necessary by the Town.

(2) The taxpayer shall file with the Town an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety (90) days after the equipment is brought into the boundaries of the Town or, for equipment which is brought into the boundaries of the Town for a project of less than ninety (90) days' duration, no later than ten (10) days after substantial completion of the project.

(e) If the equipment declaration is given as provided in Subsection (d) above, then as to any item of construction equipment for which the customary purchase price is under two thousand five hundred dollars ($2,500.00) which was brought into the boundaries of the Town temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales tax or use tax as high as the sales or use taxes imposed by this Article and that such local sales or use tax was previously paid. In such case, the burden of proof in any proceeding before the Town or a District Court shall be on the Town to prove such local sales or use tax was not paid.

(f) If the taxpayer fails to comply with the provisions of Subsection (d) above, the taxpayer may not avail himself or herself of the provisions of Subsection (b) of this Section and is subject to the provisions of Subsection (a) of this Section. However, substantial compliance with the provisions of Subsection (d) above shall allow the taxpayer to avail himself or herself of the provisions of Subsection (b) of this Section. (Ord. 1263, 2007)

Sec. 4-2-650. Payment requirements on building and construction use tax; exemption certificate required.

(a) No building permit shall be issued by the Building Official to any person requesting a permit for construction within the Town until the person has paid the use tax in an amount calculated by applying the use tax rate of taxation to forty percent (40%) of the valuation of the project based on current Building Code data as applied to the type of construction involved, including electrical, plumbing or mechanical material.

(b) All of such estimated valuations shall be computed by the Building Official.

(c) Any person entitled to a whole or partial exemption shall execute an affidavit showing why he or she should be excused wholly or in part from paying an estimated use tax and shall also file such other forms as the Finance Director may require to prove his or her exemption. After review of these documents, the Finance Director may excuse such person from paying an estimated use tax if he or she finds that the person requesting an exemption qualified for such exemption under Section 4-2-530 above.

(d) All construction projects shall pay the use tax when the building permit is issued. (Ord. 1263, 2007; Ord. 1313, 2009)

Sec. 4-2-660. Vehicle use tax.

The following provisions shall apply to the payment of and collection of the vehicle use tax:

(1) The use tax imposed by this Article shall be collected by the authorized agent of the Colorado Department of Revenue.

(2) The proceeds of the use tax imposed by this Article shall be paid to the Town periodically in accordance with an agreement entered into by and between the Town and the authorized agent of the Colorado Department of Revenue.

(3) The Town Manager is empowered to enter into and execute on behalf of the Town any agreements necessary for the administration and enforcement of this Article. (Ord. 1263, 2007)

Sec. 4-2-670. Collection; limitation of action.

For transactions initiated on or after January 1, 1986:

(1) No use tax, interest thereon or penalties with respect thereto shall be assessed, nor any notice of lien be filed, distraint warrant issued or suit for collection be instituted, nor any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which case such lien shall continue only for one (1) year after the filing of notice thereof. In the case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may begin, at any time. Before the expiration of such period of limitation, the taxpayer and the Town Manager may agree in writing to an extension thereof, and the period so agreed to may be extended by subsequent agreements in writing.

(2) In the case of failure to file a return, the use tax may be assessed and collected at any time. (Ord. 1263, 2007)

Sec. 4-2-680. Refunds; limitations of actions.

For transactions consummated on or after January 1, 1986:

(1) An application for refund of use tax paid under dispute by a purchaser or user who claims an exemption pursuant to Section 4-2-520 of this Article shall be made within sixty (60) days after the storage, use or consumption of the goods or services whereon an exemption is claimed.

(2) An application for refund of tax moneys paid in error or by mistake shall be made within three (3) years after the date of storage, use or consumption of the goods for which the refund is claimed. (Ord. 1263, 2007)

Sec. 4-2-690. Interest in underpayment, nonpayment or extensions of time for payment of tax.

(a) If any amount of use tax is not paid on or before the last due date prescribed for payment, interest on such amount at the rate imposed under Section 4-2-620 of this Article shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard for any extension of time for payment and shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment is not otherwise prescribed, the last date of payment shall be deemed to be the date the liability for the tax arises, and in no event shall it be later than the

date notice and demand for the tax is made by the Town Manager.

(b) Interest prescribed under Sections 4-2-580 through 5-2-610 of this Article shall be paid upon notice and demand, and shall be assessed, collected and paid in the same manner as the tax to which it is applicable.

(c) If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this Section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowed with respect to such overpayment.

(d) Interest prescribed under this Section and Sections 4-2-590 through 4-2-610 on any use tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected. (Ord. 1263, 2007)

Sec. 4-2-700. Deficiency due to negligence.

If any part of the deficiency in payment of the use tax is due to negligence or intentional disregard of the ordinances or of authorized rules and regulations of the Town with knowledge thereof, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest in such case shall be collected at the rate imposed under Section 4-2-620 below, in addition to the interest provided by Section 4-2-320 of this Article, on the amount of such deficiency from the time the return was due from the person required to file the return, which interest and addition shall become due and payable ten (10) days after written notice and demand to him or her by the Town Manager. If any part of the deficiency is due to fraud with intent to evade the tax, then there shall be added one hundred percent (100%) of the total amount of the deficiency, and in such case, the whole amount of the tax unpaid, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Manager, and an additional three percent (3%) per month on the amount shall be added from the date the return was due until paid. (Ord. 1263, 2007)

Sec. 4-2-710. Neglect or refusal to make return or pay.

If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required, the Town Manager shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to ten percent (10%) thereto and interest on such delinquent taxes at the rate imposed under Section 4-2-730 below, plus one percent (1%) per month from the date due. (Ord. 1263, 2007)

Sec. 4-2-720. Penalty interest upon unpaid use tax.

Any use tax due and unpaid shall be a debt to the Town and shall draw interest at the rate imposed under Section 4-2-730 below, in addition to the interest provided by Section 4-2-740, from the time when due until paid. (Ord. 1263, 2007)

Sec. 4-2-730. Rate of interest.

When interest is required or permitted to be charged under any provisions of Sections 4-2-690 through 4-2-720 above, the annual rate of interest shall be that established by the state Commissioner of Banking pursuant to Section 39-21-110.5, C.R.S. (Ord. 1263, 2007)

Sec. 4-2-740. Other remedies.

Nothing in Sections 4-2-690 through 4-2-720 above shall preclude the Town from utilizing any other applicable penalties or remedies for the collection or enforcement of use taxes to include such other provisions of this Article which may be applicable. (Ord. 1263, 2007)

Sec. 4-2-750. Final decision of Town.

For transactions consummated on or after January 1, 1986:

(1) Within fifteen (15) days after filing a notice of appeal as provided in Subsection 4-2-760(e) below, the taxpayer shall file with the District Court a surety bond of twice the amount of the taxes, interest and other charges stated in the final decision by the Town Manager which are contested on appeal. The taxpayer may, at his or her option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a state or national bank or a state or federal savings and loan association, in accordance with the provisions of Section 11-35-101(1), C.R.S., equal to twice the amount of the taxes, interest and other charges stated in the final decision by the Town Manager.

(2) The taxpayer may, at his or her option, deposit the disputed amount with the Town Manager in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendancy of the action. At the conclusion of the action, after appeal to the Supreme Court or Court of Appeals or after the time for such appeal has expired, the funds deposited shall be, at the direction of the court, either retained by the Town Manager and applied against the deficiency or returned in whole or in part to the taxpayer with interest at the rate imposed pursuant to Section 4-2-620 of this Article. No claim for refund of amounts deposited with the Town Manager need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the court. (Ord. 1263, 2007)

Sec. 4-2-760. Collection; map of municipal boundaries.

The Town shall make available to any requesting vendor a map showing the boundaries of the Town. For transactions consummated on or after January 1, 1986, the requesting vendor may rely on such map and any update thereof available to such vendor in determining whether to collect a use tax. No penalty shall be imposed or action for deficiency maintained against such a vendor who in good faith complies with the most recent map available to it. (Ord. 1263, 2007)

Sec. 4-2-770. Dispute resolution and appeal.

If the deficiency notice or claim for refund as asserted by the Town Manager, and involving only the Town, the taxpayer may appeal the deficiency notice or denial of a claim for a refund to the District Court of the County as provided in Section 29.2.106.1(8), C.R.S., provided that the taxpayer files such appeal within thirty (30) days after the taxpayer's exhaustion of all other local remedies. The taxpayer shall have no right to such appeal if he or she has not exhausted all applicable local remedies, or if he or she fails to file an appeal within the time provided for in this Subsection. For purposes of this Subsection, *exhaustion of local remedies* means:

(1) The taxpayer has timely requested in writing a hearing before the Town, and the Town has held the hearing and issued a final decision thereon. The hearing shall be informal, and no transcript, rules of evidence or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the Town may submit a brief. The Town shall hold the hearing and issue the final decision thereon within ninety (90) days after the Town's receipt of the taxpayer's written request for the hearing, except that the Town may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer, but, in any such event, the Town shall hold the hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing; or

(2) The taxpayer has timely requested in writing a hearing before the Town and the Town has failed to hold the hearing or has failed

to issue a final decision thereon within the time periods prescribed in Paragraph (1) above.

If the Town reasonably finds that the collection of use tax will be jeopardized by delay, the Town may utilize the procedures set forth in Section 4-2-410 of this Article. (Ord. 1263, 2007)

Division 4
Violations and Limitations

Sec. 4-2-810. Violations; summons and complaints; penalty.

(a) It shall be a violation of this Chapter to fail to perform any applicable affirmative duty specified in this Chapter, including but not limited to:

(1) The failure of any person engaged in business in the Town to obtain applicable licenses.

(2) The failure of any taxpayer to file a timely return or to make timely payment of any tax due.

(3) The making of any false or fraudulent statement by any person in any return, claim for refund or hearing.

(4) The evasion of collection of any sales or use tax by any person or the aiding or abetting of any other person in an attempt to evade the timely payment of tax due.

(b) The Finance Director or the Town Manager may direct the issuance of a complaint and summons to appear before the Municipal Court to any person who may be in violation of this Chapter, or of the rules and regulations promulgated by the Finance Director or the Town Manager, to enforce this Chapter.

(c) Violations of this Chapter shall be punished by a fine or imprisonment, or both, pursuant to the limits established in this Code. Each and every twenty-four-hour continuation of any violation shall constitute a distinct and separate offense. (Ord. 1263, 2007)

Sec. 4-2-820. Statute of limitations.

Unless the limitation period has been extended as provided in this Section, the statute of limitations for provisions contained herein shall be as follows:

(1) Refunds.

a. Any claim for refund for disputed tax shall be submitted to the Town Manager or Finance Director on or before sixty (60) days from the date of such purchase.

b. Any claim for refund resulting from a notice of overpayment shall be submitted to the Town Manager or Finance Director on or before thirty (30) days after the date of such notice of overpayment.

c. Any other claim for refund shall be filed on or before three (3) years after the date such overpayment was paid to the Town.

(2) Assessments. No notice of assessment shall be issued more than three (3) years after the due date of such tax due.

(3) Liens. No notice of lien shall be issued more than three (3) years after the due date of the tax due. If the limitation period is extended, a notice of lien may be filed on or before thirty (30) days from the date of the notice of assessment issued for each extended period.

(4) Returns.

a. When a taxpayer fails or refuses to file a return, the tax due may be assessed and collected at any time.

b. In the case of a false or fraudulent return filed with intent to evade tax, the tax due may be assessed, or proceedings for the collection of such tax due may begin at any time.

(5) Protests. No protest of a notice of assessment or denial of a claim for refund shall be valid if submitted to the Finance Director or the Town Manager in other than written form or after the period allowed in this Chapter.

(6) The period of limitation may be extended before its expiration.

a. The taxpayer and Town Manager may agree in writing to extend the period.

b. If the Town provides written notice to the taxpayer prior to the expiration of the period of limitation that the latter's records will be audited pursuant to this Chapter, such period of limitation shall be extended for the audit period until thirty (30) days after the date of the notice of assessment or notice of overpayment issued as a result of such audit. *Audit period* means the thirty-six-month reporting period preceding the date of the notice of audit.

(7) Performance of an audit does not constitute a waiver or exemption from the statute of limitations or preclude additional audits of the same period within the parameters of this Section. (Ord. 1263, 2007)

ARTICLE 3

Real Estate Transfer Tax

Sec. 4-3-10. Definitions.

As used in this Article, the following words shall have the definitions ascribed to them, unless otherwise provided:

Affordable housing units means dwelling units restricted to the housing size and type for individuals meeting asset, income and occupancy guidelines approved by the Town Council and/or the Housing Authority, whichever shall apply.

Consideration means the gross consideration paid for the real property affected by the transfer and includes actual cash paid, the fair market value of real and personal property delivered or conveyed in exchange for the transfer, or contracted to be so paid or delivered or conveyed in return for the transfer, and includes the amount of any lien, mortgage, contract indebtedness or other encumbrance or debt, either given to secure the purchase price or any part thereof, or remaining unpaid on the property at the time of the transfer. *Consideration* does not include as an addition to gross consideration the amount of any outstanding lien or encumbrance in favor of the United States, the State or a municipal or quasi-municipal corporation or district for taxes or special or local benefits or improvements. In the event the transaction or transfer is by lease agreement not specifically exempted in Section 4-3-60 below, the consideration is the capitalized value of the average annual rental unit of the lease, computed as follows: the average annual rental over the entire term of the lease (including any renewal term, plus the actual consideration, other than rent, paid or to be paid) shall be computed and the average annual rental shall be ten percent (10%) of the capitalized value. The payment of ad valorem real property taxes, insurance and the assumption of maintenance obligations under any lease agreement shall not be included in the annual rent-capitalization computation; however, capital improvements required to be made shall be part of the actual consideration. When the average annual rental cannot be determined for a lease agreement, or at the election of the Town Manager, the consideration therefor shall be based upon the appraised total value of the property covered by the lease as determined by an independent appraisal obtained by the Town Manager and paid for by the purchaser, or the capitalized value of the rentals or other consideration in terms of the present worth of the stream of rentals and other consideration under the lease, and any other economic considerations to reflect the capitalized value of the transferred or leased property.

Deed in lieu of foreclosure means a conveyance by a property owner to a secured party which is the subject of a mortgage, deed of trust or other security instrument in consideration of the cancellation of all or part of the indebtedness secured by such security instrument.

Purchaser means any person to whom a transfer of real property is made.

Real estate transfer tax means the tax imposed by this Article on the transfer of real property.

Real property means real property as defined by and under the laws of the State.

Taxable lease means any lease of real property with a term, or initial term and all renewal terms, which aggregate in length twenty-nine (29) years or more; provided that the lessee has possession or the right to possession on payment of rents. *Taxable lease* also means any lease of real property for less than twenty-nine (29) years of term, or initial term and all renewal terms aggregated, if the lessee has a clause which would permit the lessee at his or her discretion to extend the lease beyond

twenty-nine (29) years or if the lessee has an option to purchase some or all of the real property leased. If the lessee has a lease with such an option to purchase which option may be exercised only within three (3) years after the date the lease and option is entered into, then the real estate transfer tax shall not be due and payable unless and until the exercise and consummation of such option. If any other lease with such an option to purchase is entered into, the real estate transfer tax is due and payable at the time of such transfer as transfer is defined in this Section.

Transfer, whether or not the same is in writing or is recorded, means and includes:

a. Any grant, assignment, transfer, exchange, conveyance or consummated sale of any ownership or title to real property situated in the Town;

b. The leasing, letting, conveyance, assignment, transfer or consummated sale of a possessory interest in real property, subject to the exemptions provided in this Article; or

c. The conveyance, assignment, transfer or consummated sale of a timeshare, interval or time span estate, as defined in Section 2-215 of the Land Use Code. *Conveyance of ownership or title to real property*, for the purpose of this Article, means and includes the transfer of more than fifty percent (50%) of the authorized and issued shares of a corporation which has as its principal asset real property situated in the Town. (Prior code 3.12.010)

Sec. 4-3-20. Tax imposed.

There is imposed a tax on all transfers, whether by deeds, instruments, writings, leases or any other documents or otherwise by which any lands, tenements or other interests in real property located in the Town are sold, granted, let, assigned, transferred, exchanged or otherwise conveyed to or vested in a purchaser thereof, or any other person, except as may be specifically exempted by Section 4-3-60 below. The tax shall be due and payable at the time of any such transfer and contemporaneously therewith as specified in this Article. (Prior code 3.12.020)

Sec. 4-3-30. Revenue dedication.

(a) All of the proceeds of the real estate transfer tax shall be specifically pledged for the acquisition of real estate for public purposes for the Town, for capital improvements of the Town or for both such purposes, including, without limitation, payment of any obligations of the Town entered into for such purposes. The proceeds of the real estate transfer tax shall be deposited in the Capital Improvement Fund, or any other special fund of the Town as the Town Council shall determine from time to time.

(b) Twenty percent (20%) of the unencumbered revenues collected and received by the Town through the real estate transfer tax imposed pursuant to this Article shall be dedicated to and deposited in a separate Open Space Fund as established under Section 4-1-30 of this Code. For purposes of this Section, *unencumbered revenues* shall mean means those tax revenues not already pledged or dedicated to debt service or obligations created or in effect prior to the collection of said revenues. In no event shall revenues dedicated and transferred into the Open Space Fund exceed twenty percent (20%) of the total annual transfer tax revenues collected and received by the Town in any given year absent the express prior authorization of the Town Council by ordinance or resolution. (Prior code 3.12.030; Ord. 1288 §1, 2008; Ord. 1358, 2011)

Sec. 4-3-40. Liability for payment.

(a) Each purchaser and any other person to whom a transfer is made, which transfer is subject to the tax imposed under Section 4-3-20 above, shall be jointly and severally liable for payment of the tax.

(b) The purchaser or person to whom a transfer is made shall remit the tax to the Finance Director. (Prior code 3.12.040)

Sec. 4-3-50. Amount.

The amount of real estate transfer tax payable in each case shall be as follows:

(1) Transfer between co-owners.

a. A nonexempt transfer from one (1) or more co-owners to another co-owner or co-owners is taxable in accordance with this Section. The real estate transfer tax payable with respect to such transfer shall be three percent (3%) of the gross consideration for the transfer paid to the grantor by the grantee. Notwithstanding the definition of *consideration* contained in Section 4-3-10 above, for the purpose of this Section, *gross consideration* means and includes:

1. Actual cash paid, the money equivalent of real and personal property delivered or conveyed in exchange for the transfer, or contracted to be paid or delivered or conveyed in return for the transfer;

2. The amount of any lien, mortgage, contract, indebtedness or other encumbrance or debt given to secure the purchase price, or any part thereof; and

3. The grantor's proportionate share of the unpaid balance of any debt which is owed against the property at the time of the transfer and not satisfied in connection with such transfer. For purposes of this Paragraph, the grantor's proportionate share of any unpaid debt which is owed against the property at the time of the transfer shall be determined by multiplying the grantor's fractional or percentage ownership interest in the property prior to the transfer, times the unpaid balance of such debt existing as of the time of the transfer.

b. The term *gross consideration* does not include as an addition thereto the amount of any outstanding lien or encumbrance in favor of the United States, the State or a municipal or quasi-government corporation or district for taxes, special benefits or improvements.

c. The real estate transfer tax on any transfer between co-owners by lease agreement shall be determined in accordance with the definition of *consideration* contained in Section 4-3-10 of this Article.

(2) Where the consideration exceeds five hundred dollars ($500.00), the real estate transfer tax payable shall be three percent (3%) of the consideration.

(3) When required pursuant to Subsection 4-3-90(b) of this Article, the cost of the appraisal shall be added to the amount of real estate transfer tax as computed pursuant to this Section. (Prior code 3.12.050)

Sec. 4-3-60. Exemption; grounds.

The real estate transfer tax imposed by this Article shall not apply to:

(1) Any transfer where there is no consideration or when the consideration is five hundred dollars ($500.00) or less.

(2) Any transfer wherein the United States, or any agency or instrumentality thereof, the State, any county, city and county, municipality, district or other political subdivision of the State, is either the grantor or grantee.

(3) Any transfer by gift of real property, where there is no consideration other than love and affection or charitable donation.

(4) Any transfer by document, decree or agreement partitioning, terminating or evidencing termination of a joint tenancy, tenancy in common or other co-ownership in real property; however, if additional consideration or value is paid in connection with such partition or termination, the tax shall apply and be based upon such additional consideration.

(5) Any transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.

(6) Transfers made pursuant to reorganization, merger or consolidation of corporations or by a subsidiary to a parent corporation for no consideration other than cancellation or surrender of the subsidiary's stock, or transfers made to a corporation, partnership, limited partnership, joint venture, business trust or other association or organization if that association or organization is owned by the persons by whom such transfer was made and if such owners have the same relative interests in the association or organization as they had in the real property immediately prior to the transfer and there is no consideration other than their respective interests in the new association or organization.

(7) Transfers to make effective any plan confirmed or ordered by a court of competent jurisdiction under the Bankruptcy Code in an equity receivership proceeding.

(8) Any transfer made and delivered without consideration for the purpose of confirming, correcting, modifying or supplementing a transfer previously made; making minor boundary adjustments; removing clouds on titles; or granting rights-of-way, easements or licenses.

(9) Any decree or order of a court of record quieting, determining or resting title, including a final order awarding title pursuant to a condemnation proceeding.

(10) Any transfer of cemetery lots.

(11) Any lease of any real property (or assignment or transfer of any interest in any such lease), provided that the terms and conditions of such lease do not constitute a taxable lease, as defined in this Article, of the property.

(12) Transfers to secure a debt or other obligation, or releases other than by foreclosure of real property which is security for a debt or other obligation.

(13) An executory contract for the sale of real property of less than three (3) years' duration, under which the vendee is entitled to or takes possession thereof without acquiring title thereto, or any assignment or cancellation of any such contract.

(14) Any transfer by deed in lieu of foreclosure, provided that:

a. Such transfer shall be exempt only if the grantee in such deed is the person holding the obligation or instrument which is being canceled, in whole or in part, in exchange for the transfer; and

b. Such transfer shall be exempt only to the extent of the amount of the obligation which is being canceled, in whole or in part, in exchange for the transfer.

(15) Any transfer by sheriff's deed, trustee's deed or other conveyance of real property in connection with an execution sale; foreclosure sale by the public trustee under a power of sale; court decree foreclosing a mortgage, deed of trust or other security instrument; or court decree of lien foreclosure; provided that:

a. Such transfer shall be exempt only if the grantee in such deed is the same person who is the holder, payee or beneficiary (as determined at the time of the commencement of foreclosure or execution) of the

debt or instrument which is the basis of the proceeding, or such person is a junior lien holder or exercising redemption rights pursuant to a lien that was recorded prior to commencement of the foreclosure or execution; and

b. Such transfer shall be exempt only to the extent of the current amount of the obligation satisfied at the execution or foreclosure sale, plus any obligations to prior lienholders paid from the sale.

The certificate of purchase or other evidence of purchase issued by the person conducting the sale shall, if the above-described conditions are met, be exempt from the within transfer tax. If the conditions are not so satisfied, there shall be a tax imposed as provided herein, at the time of the issuance of the certificate of purchase or other evidence of purchase issued by the person conducting the sale, which payment shall be made to the Town in escrow. If no redemption is made by the owner, the tax shall become absolute to the Town upon expiration of the owner's redemption periods. If redemption is made by the owner, the tax shall be refunded to the person who paid it to the Town. A transfer of the certificate of purchase or other evidence of purchase issued by the person conducting the sale shall be subject to a transfer tax. The deed by the person or entity conducting the sale is not a transfer subject to the transfer tax.

(16) Any transfer which fulfills all of the following three (3) conditions:

a. The transferor obtained title to the property from the transferee.

b. The transfer occurred pursuant to a written agreement entered into on or before the date of the deed which conveyed title from the transferee to the transferor. At a minimum, the agreement shall either:

1. Allow the transferor to require the transferee to reacquire the property; or

2. Allow the transferee to require the transferor to reconvey the property to the transferee.

c. The transfer occurred on or before three hundred sixty-five (365) days after the transferor obtained title from the transferee.

(17) A transfer under foreclosure or power of sale, or a voluntary conveyance in lieu of foreclosure, whereby the secured party takes back the property or the property is redeemed by the original debtor. However, a purchaser at a foreclosure sale who holds no security interest or redemption rights in the property, and who acquires title to the property upon expiration of all redemption periods, is required to pay the tax.

(18) Transfers pursuant to a decree of separation or divorce.

(19) Transfer to intermediaries for no consideration for a period not to exceed six (6) months.

(20) Transfers to a trust if the donor has the same relative interest in the trust as he or she had prior to the transfer; or if there is no consideration other than love and affection or charitable donation. Transfers from such a trust conveying or releasing the property from the trust are also exempt where there is no consideration.

(21) Transfers of affordable housing units which are subject to a Town or Housing Authority deed restriction which includes a limitation on maximum sales price; provided that such transfer is made in compliance with applicable housing guidelines, as may be amended from time to time; and provided, further, that if any of the Town's excise tax revenue bonds, Series 1997, or any other obligations of the Town having a lien on the real

estate transfer tax revenues on a parity therewith are then outstanding, at the time of said transfer the Town has appropriated and deposited in the Capital Improvement Fund to the extent required to make all payments required by Sections 5B(1) and 5B(2) of Ordinance No. 1068, Series of 1997, or any corresponding sections of any other ordinances authorizing the issuance of any such obligations an amount at least equal to the amount of the real estate transfer tax waived by reason of this exemption. (Prior code 3.12.060; Ord. 1288 §1, 2008)

Sec. 4-3-70. Application for exemption.

(a) In the event of any transfer claimed to be exempt from the real estate transfer tax imposed in this Article, the grantor or purchaser shall apply for and obtain from the Town Manager a certificate of exemption, which may be affixed to the deed or other instrument of transfer. The burden of proving any exemption shall in all cases be upon the person claiming it. The exemption provided in Section 4-3-60 above shall be allowed only upon issuance of a certificate of exemption by the Town Manager prior to the date the real estate transfer tax is payable to the Town. The form of application for exemption and the certificate of exemption shall be in substantially the following form:

APPLICATION FOR EXEMPTION FROM
REAL ESTATE TRANSFER TAX

The undersigned, as Purchaser pursuant to a deed or other instrument of Transfer from _____ to _____ dated _____, hereby applies for exemption from the Real Estate Transfer Tax, imposed by Telluride Municipal Code Chapter 4, Article 3, for the following described property:

The basis of such exemption is as follows:

(State briefly grounds for exemption, including applicable Sections and Subsections of Chapter 4, Article 3.)

I hereby certify this _____ day of _____, 20__, under penalty of perjury that the foregoing statements are true and correct.

_____

Purchaser:
Address:
Phone:

STATE OF _____)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20__.

Witness my hand and official seal.

My commission expires: _____

_____
Notary Public

(SEAL)

CERTIFICATE OF EXEMPTION

I hereby certify this _____ day of _____, 20__, that the above described Transfer of Real Property is exempt from the payment of the Real Estate Transfer Tax under Telluride Municipal Code Chapter 4, Article 3.

_____
Town Manager
Telluride, Colorado

(b) Any person whose claim of exemption duly applied for under the provisions of this Section is denied by the Town Manager may immediately appeal to the Town Council for a determination of such exemption, and such appeal shall be considered by the Town Council within sixty (60) days of receipt of the same. In the event of a determination by the Town Council favorable to the appellant, any amount previously deposited, or so much thereof as may be allowed by the Town Council, shall be promptly refunded to the person paying or depositing the same. If a decision is not made by the Town Council within sixty (60) days of the receipt of an appeal, the decision will be deemed favorable to the appellant, unless the appellant has obtained a continuance of the matter, in which case the Town Council shall make its decision within six (6) months after receipt of the appeal.

(c) In case of an application for an exemption which is not granted before the transfer takes place, the real estate transfer tax shall be paid as required by this Article. Thereafter, if the exemption is allowed, upon application to the Town

Manager, the person who has paid the tax is entitled to a refund thereof, or so much of the tax as qualified for refunding pursuant to the exemption granted.

(d) A one-hundred-dollar application fee shall be required with submission of the application. If the application is approved, the fee shall be refunded. (Prior code 3.12.070; Ord. 1288 §1, 2008)

Sec. 4-3-80. Property outside Town.

When a transfer subject to this Article includes real property located within the Town as well as real property located elsewhere, the tax imposed under the authority of this Article shall be computed only with respect to real property located within the Town, and the tax shall be assessed based on that part of the consideration fairly attributable to such real property located within the Town. (Prior code 3.12.080)

Sec. 4-3-90. Enforcement by Town Manager.

(a) The Town Manager is charged with the enforcement of the provisions of this Article and is authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations pertaining thereto.

(b) In the event the purchaser fails or refuses to provide full and complete information regarding the consideration paid for transfer of real property subject to the transfer tax, the Town Manager may obtain an independent appraisal and the transfer tax will be computed on the appraised value as determined by said appraiser, including allocation of consideration between real property and other things of value conveyed contemporaneously when applicable. The cost of said appraisal shall be added to the amount of real estate transfer tax due. (Prior code 3.12.090)

Sec. 4-3-100. Annual report to Town Council.

The Town Manager shall annually prepare a report of the receipts from the real estate transfer tax, expenditures relating thereto made in the preceding fiscal year, funds into which the proceeds have been deposited, the disposition of those funds and the projected revenue and expenditures for the next fiscal year. Such report shall be submitted to the Town Council concurrently with the submission of the Town budget. (Prior code 3.12.100)

Sec. 4-3-110. Report of transfer.

At the time of any transfer upon which a real estate transfer tax is imposed or which is claimed to be exempt under this Article, there shall be made a report to the Town Manager on forms prescribed by the Town Manager, setting forth the true, complete and actual consideration for the transfer, the names of the parties thereto, the description and location of the real property transferred, the basis of any claimed exemption and such other information as he or she may require. (Prior code 3.12.110)

Sec. 4-3-120. Collection by closing agents.

For the purpose of collection of the tax imposed by this Article, all banks, title companies, escrow companies, building and loan institutions, attorneys, real estate agencies or other closing agents or agencies, permitted as such to do business under the laws of the State, may collect the real estate transfer tax (holding the funds in trust for the Town) and remit the same to the Town for and on behalf of the purchaser, forthwith. The funds shall not be commingled with other funds of the collector. (Prior code 3.12.120)

Sec. 4-3-130. Collection by County.

(a) The Real Estate Transfer Tax Administrator is authorized to certify delinquent real estate transfer taxes to the County Treasurer for collection, pursuant to Title 31, Article 20, C.R.S. The Town shall pay the County reasonable and just compensation for collection services as provided by statute.

(b) Collection by the County Treasurer shall be in addition to all of the Town's other remedies at law or in equity. (Prior code 3.12.130)

Sec. 4-3-140. Delinquency; interest.

The real estate transfer tax imposed under this Article is due and payable at the time of the transfer of the real property, and is delinquent if it remains unpaid for thirty (30) days thereafter. In the event that the tax is not paid prior to becoming delinquent, a delinquency penalty of fifteen percent (15%) of the amount of tax due shall accrue. In the event a portion of the tax is paid prior to becoming delinquent, the penalty shall only accrue as to the portion which is delinquent, and interest shall accrue at the rate of one and one-half percent (1.5%) per month, or fraction thereof, on the amount of tax, exclusive of penalties, from the date the tax becomes delinquent to the date of payment. Interest and penalty accrued shall become part of the tax. (Prior code 3.12.140)

Sec. 4-3-150. Lien status.

(a) The real estate transfer tax imposed by this Article, and any penalty, fees and interest due thereon, if not paid when due, together with all costs of collection of the tax, penalty, fees and interest, shall constitute a perpetual lien on the real property transferred in the amount applicable to each lot or parcel of real property transferred and shall have priority over all other liens except general tax liens and special or local improvement district assessment liens. Except as provided in this Subsection, the lien for the tax shall be and shall remain a first and prior lien superior to all other liens upon the property and shall take precedence on such property over other liens or claims of whatsoever kind or nature. The lien shall continue until the amount thereof is paid or until its discharge of record by foreclosure or otherwise.

(b) The recording of the ordinances from which this Article derives in the office of the County Clerk and Recorder shall constitute notice to all persons interested in the transfer of real property of the existence of the lien imposed by the real estate transfer tax on such transfer. (Prior code 3.12.150)

Sec. 4-3-160. Notice of delinquency.

If the real estate transfer tax is unpaid and delinquent, the Town Manager shall give written notification of the delinquency to the purchaser or person to whom the transfer is made at the address shown on any deed or instrument evidencing the transfer, or his or her last known address. The notification shall be mailed by certified mail, postage prepaid, return receipt requested, and shall be effective on the date of mailing. If the tax, penalty and interest are not paid within thirty (30) days of the effective date of the notification, the Town Manager shall commence foreclosure of the lien for the tax in the same manner as the foreclosure of a mortgage in accordance with state law. (Prior code 3.12.160; Ord. 1288 §1, 2008)

Sec. 4-3-170. Collection action.

The amount of the tax, penalty, fees and interest imposed under the provisions of this Article shall be deemed a personal debt owed by the purchaser to the Town. Any person owing money to the Town under the provisions of this Article is liable to an action brought in the name of the Town for the recovery of such amount. (Prior code 3.12.170)

Sec. 4-3-180. Recording without payment.

Any person liable for the real estate transfer tax upon a transfer who causes the deed, instrument of conveyance or document evidencing the transfer to be filed of record in the office of the County Clerk and Recorder or attempts to so record the document until and unless the real estate transfer tax and all penalties and interest thereon have been paid in full is in violation of this Article. (Prior code 3.12.180)

Sec. 4-3-190. Evasion by artifice or device.

Notwithstanding the provisions of Section 4-3-60 of this Article, if an artifice or device is

employed in connection with the transfer of real property, artifice or device, meaning a transaction a substantial purpose of which was to evade the provisions of this Article, then such transfer will nevertheless be subject to the real estate transfer tax. *Artifice* or *device* includes, but is not limited to:

(1) A transfer to a corporation, partnership, limited partnership, joint venture, business trust or other association or organization followed within three (3) years by an assignment of the controlling interest in such association or organization.

(2) Such a transfer plus the intent to ultimately assign the controlling interest in such association or organization. (Prior code 3.12.190; Ord. 1288 §1, 2008)

Sec. 4-3-200. Remedies cumulative.

Any remedies provided for in this Article are cumulative and not exclusive and are in addition to any other remedies provided by law. Violation by any person of any of the provisions of this Article shall constitute a misdemeanor and is punishable by a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code. (Prior code 3.12.200; Ord. 1288 §1, 2008)

ARTICLE 4

Excise Tax

Sec. 4-4-10. Purpose.

This Article has been enacted to implement the vote of the Town Electorate made on November 4, 2003, to adopt and impose a two-percent excise tax on lodging rentals and the sale of food and drink served or furnished in restaurants and bars, the revenue from which shall be collected and deposited in a special separate fund and retained or expended to fund an airline guaranty program, and all provisions contained within this Article shall be liberally interpreted and construed in furtherance of said purpose. (Prior code 3.40.010)

Sec. 4-4-20. Definitions.

The following words and/or phrases used in this Article shall be defined as follows:

Airline guaranty program means a program of defined activities established, intended and administered exclusively to encourage, support, enhance and expand commercial and/or charter airline service to the Telluride and Montrose regional airports by, among other things, providing contractual revenue guarantees to commercial and/or charter airlines.

Bar means a premises or establishment required to be licensed under Chapter 6, Article 2 of this Code and/or Articles 46 or 47 of Title 12, C.R.S., within which fermented malt beverages or malt, vinous or spirituous liquors are sold and consumed, and may include restaurants.

Consumer means any person who purchases or otherwise obtains for a fee or other consideration a lodging rental, food or drink within the Town.

Drink means any beverage for human consumption, including, without limitation, soft drinks, beer, liquor, tea or milk.

Finance Director means the Finance Director for the Town.

Food means any raw, cooked, prepared or processed edible substance intended for human consumption.

Lodging rental means any room, apartment, condominium, boardinghouse, hotel room, guesthouse, lodge, campground site, recreational vehicle space, bed and breakfast, residence or similar accommodation generally used for sleeping and made available for a fee to transient guests for a period of less than thirty (30) days. (Ord. 1342, 2010)

Restaurant means a business or premises equipped with a kitchen or other food preparation facilities used for the preparation, service and sale of meals, sandwiches or other ready-to-eat food items to customers for immediate consumption, and which may include, without limitation, grocery stores and delicatessens serving sandwiches, salads or other ready-to-eat food, vending carts, and coffee, pizza and sandwich shops.

Taxpayer means any person obligated to pay and/or collect the tax, as the case may be, under the terms of this Article.

Vendor means any person who provides a lodging rental or food or drink to a consumer or patron for a fee or other consideration. (Prior code 3.40.020; Ord. 1288 §1, 2008)

Sec. 4-4-30. Excise tax imposed.

(a) There is hereby imposed and levied in the Town, and shall be collected and paid, a two percent excise tax on the purchase price or other consideration paid or charged for any lodging rental, and on the price or other consideration paid

or charged for food and drink served or furnished by a restaurant or bar.

(b) The excise tax imposed by this Section shall be separately stated on the invoice, bill, sales receipt or similar document illustrating the price or charge for the lodging, food or drink provided to the consumer by the vendor.

(c) It is unlawful for any consumer, patron or other purchaser not to pay, or for any vendor not to collect and timely remit, the excise tax imposed by this Section. (Prior code 3.40.030; Ord. 1288 §1, 2008)

Sec. 4-4-40. Excise tax license required; suspension or revocation.

(a) It is unlawful for any person to engage in renting, leasing or otherwise providing a lodging rental, or for any person to engage in the sale of food or drink in any restaurant or bar, without first having obtained an annual excise tax license. The license required by this Section may be incorporated into the business license required under Chapter 6, Article 1 of this Code.

(b) Applications for an excise tax license shall be made to the Finance Director on forms prescribed therefor. A license shall be valid until December 31 of the year in which it was issued, unless earlier revoked or suspended. A fee as may be established by the Town shall accompany each license application.

(c) A separate license and fee, if any, shall be required for each place of business engaged in the type of transactions subject to the excise tax under this Article. No license shall be transferable, and the license and tax imposed by this Article shall be in addition to all other licenses and taxes required and/or imposed by any other ordinance or law. Whenever a business or other entity licensed under this Section is sold or transferred so that the ownership interest in the same changes, then the purchaser shall obtain a new license.

(d) The Town Council, upon reasonable prior and written notice to the licensee and after a hearing, may revoke or suspend the license of any person found by the Town Council to have violated any provision of this Article. (Prior code 3.40.040; Ord. 1288 §1, 2008)

Sec. 4-4-50. Collection and remittance of tax; vendor collection fee; delinquency interest and penalty.

(a) All vendors subject to this Article shall timely collect and be liable for an amount equivalent to two percent (2%) of the price or cost paid for lodging rentals and for food and drink sold in a restaurant or bar as specified in Subsection 4-4-30(a) of this Article, and shall, before the twentieth day of each month, make a return to the Town for the preceding calendar month and remit said collected tax amounts to the Town; however, in the event the tax collected in a month is less than three hundred dollars ($300.00), then the return and remittance may be performed at the end of the calendar quarter. Vendors shall compute and add the two-percent tax to all taxable amounts in accordance with the tax schedule established by the Finance Director, said schedule to be designed so that no tax is imposed and collected on a sale or charge of seventeen cents ($0.17) or less.

(b) All returns and remittances shall be made in such a manner and upon such forms as the Finance Director may prescribe, inclusive of the standard reporting forms devised by the Executive Director of the Colorado Department of Revenue. The Finance Director may extend the time for making a return and paying the taxes due under such reasonable rules, regulations or conditions as he or she may determine necessary from time to time.

(c) If the accounting methods regularly employed by a vendor, or other conditions, are such that reporting taxable sales and remitting the collected tax on a calendar month basis will impose an unnecessary hardship, the Finance Director may, upon written request of the vendor, accept reports and remittances at such intervals as

will, in his or her opinion, better suit the convenience of the vendor while not jeopardizing the collection of the tax; provided, however, that the Finance Director may not permit vendors to make returns and pay taxes at intervals greater than every three (3) months, and any failure by the vendor to timely remit all taxes due under such alternate method of reporting shall, upon written notice to the vendor, result in the immediate revocation of such alternate method.

(d) A vendor doing business in two (2) or more places or locations within the Town may file one (1) return covering all such business locations.

(e) If any vendor during a reporting period collects a total tax amount in excess of two percent (2%) of the total taxable charges or sales, the vendor shall remit to the Town the full net amount of the tax imposed along with any collected excess. The retention by a vendor of any excess collected tax, or the intentional failure to remit punctually to the Town the full amount required to be remitted by the provisions of this Article, is unlawful.

(f) Should a dispute arise between a consumer and vendor as to whether or not a charge or sale is exempt from taxation hereunder, the vendor shall nevertheless collect and the consumer shall pay such tax, and the vendor shall thereupon issue to the consumer a receipt or certificate on a form prescribed by the Finance Director showing the names of the vendor and consumer, the transaction, sale and/or price subject to the dispute, the date and amount of tax paid, and a brief statement of the claim for exemption. The consumer may apply to the Finance Director thereafter for a refund of the tax, and it shall then be the duty of the Finance Director to determine the question of exemption.

(g) A vendor may retain one and thirty-five one-hundredths percent (1 35/100%) of the sum of the excise tax remitted to the Town to cover the vendor's expense in the collection and remittance of the tax; except that, in the event a vendor is delinquent or deficient in remitting said tax to the Town, other than for unusual circumstances demonstrated to the satisfaction of the Finance Director, the vendor shall not be allowed to retain any amounts to cover such expenses in collecting and remitting the tax. (Ord. 1310, 2009)

(h) Interest shall accrue on all delinquent or deficient payments of the excise tax from the date of delinquency or underpayment to the date of full payment at the rate of one percent (1%) per month. Interest shall be calculated for each month, or portion of a month, that a tax delinquency or deficiency remains unpaid. A penalty equal to ten percent (10%) of the delinquent or deficient tax amount shall also be paid, unless the delinquency or deficiency is due to fraud or an intent to evade the tax, in which case the penalty shall be one hundred percent (100%) of the total amount of such delinquency or deficiency, and the same shall be due and paid, along with the unpaid tax, within twenty (20) days after written notice and demand for payment is made by the Town. No interest shall be allowed or paid on any overpayment of the excise tax.

(i) The timely submission of a collection report and/or payment of the excise tax required under this Article shall be evidenced by the U.S. Mail postmark date if mailed, or by the Town's stamped receipt validation date if submitted by other method of delivery. Any due date, payment date or deadline for submitting a report and/or remitting payment of the excise tax, or for providing information or taking other action, which falls on a weekend or legal holiday recognized by the Town or federal or state government, shall be automatically extended to the first business day following such weekend or holiday.

(j) It is unlawful for any person to submit false information in connection with a collection report and/or tax return. (Prior code 3.40.050; Ord. 1288 §1, 2008)

Sec. 4-4-60. Exemption from excise tax.

(a) There shall be exempt from the excise tax imposed under this Article the following:

(1) Lodging rentals or sales to the United States government and all departments and institutions thereof, the State and the departments, institutions and political subdivision thereof, and the Town; but only in the exercise of their governmental functions and only when rentals and purchases are supported by official government purchase orders or other official documentation, and paid for by draft or warrant drawn on the government's account directly to the vendor.

(2) Lodging rentals or sales to charitable organizations duly established and recognized under state or federal law, but only to the extent any such rental or sale is transacted in the conduct of the organization's regular charitable functions and activities and is paid for directly by the organization without reimbursement therefor.

(3) All rentals or sales which the Town is prohibited from taxing under the Constitution or laws of the United States or the State.

(b) The burden of proving that any rental, sale or other transaction is exempt from the excise tax imposed under this Article shall be on the person asserting such exemption under such reasonable requirements of proof as the Finance Director may prescribe. (Prior code 3.40.060; Ord. 1288 §1, 2008)

Sec. 4-4-70. Review of return; underpayment and overpayment of tax; notices.

(a) As soon as practicable after a return is filed, it shall be reviewed for accuracy and completeness. If it appears from the information on a return that the tax due is greater or lesser than the amount remitted, the tax shall be recomputed.

(b) If the amount of tax remitted with a return is more than is due based upon the information on the return, a notice shall be sent to the taxpayer. If the overpayment is at least fifteen dollars ($15.00), a notice of overpayment shall be issued and the taxpayer may either submit a written claim for refund or file an amended return reporting the correct tax due. No refund of a tax overpayment shall be paid unless a claim for refund is submitted to the Town on or before the thirtieth day from receipt of the notice of overpayment. If an overpayment is less than fifteen dollars ($15.00), it shall be credited to the tax due for the next reporting period.

(c) If the amount of the tax remitted with a return is less than is due based upon the information on the return, and the underpayment is at least fifteen dollars ($15.00), a notice of assessment shall be issued and the taxpayer shall pay to the Town the tax due, along with the appropriate interest and penalty set forth in Subsection 4-4-50(h) above, within twenty (20) days after the notice of assessment is served on the taxpayer. The taxpayer may appeal a notice of assessment, or the amount due thereunder, to the Town Manager.

(d) Every claim for a refund submitted under this Section must be made in writing and, if not made on the appropriate form therefor, shall, at a minimum, be signed by the taxpayer and include the amount of the asserted refund and adequate documentation of the claim. The Finance Director shall promptly review and determine all claims for a refund and notify the taxpayer of the same in writing. Determinations of the Finance Director may be appealed to the Town Manager. Any taxpayer dissatisfied with a decision of the Town Manager on his or her claim for a refund may file an appeal in the District Court in and for the County.

(e) It is unlawful for any person to make any false statement in connection with a refund claim; and no refund or claim for a refund shall be assignable. (Prior code 3.40.070; Ord. 1266 §1, 2007; Ord. 1288 §1, 2008)

Sec. 4-4-80. Disputed tax payment; refund.

(a) A refund shall be made, or a credit allowed, for a tax amount paid under protest or dispute or by mistake, by a taxpayer who is entitled to an exemption as provided in this Article. Applications for a refund of a tax payment made under protest must be made within sixty (60) days after the sale or other event whereon an exemption is claimed, be supported by the affidavit of the taxpayer, and be accompanied by the original invoice or sales receipt and a certificate verifying the same by the vendor. Applications for a refund of a tax payment made by mistake must be made within three (3) years from the date of the sale or other event whereon an exemption is claimed, and must be supported by the same information as that required for protesting a tax payment. The Finance Director may prescribe forms for use in making a refund application.

(b) The Finance Director shall promptly examine and determine all applications for refund and notify the applicant for the same in writing of his or her decision thereon. An applicant aggrieved of a decision by the Finance Director may appeal to the Town Manager for a hearing on his or her refund application. Any appeal must be submitted in writing to the Town Manager not later than twenty (20) days from the date of the decision of the Finance Director appealed from. Any taxpayer dissatisfied with a decision of the Town Manager on his or her claim for a refund may file an appeal in the District Court in and for the County.

(c) The burden of establishing that a sale or other transaction is exempt from taxation under this Article, or that the taxpayer is entitled to an exemption from having to pay the tax, rests on the party asserting the exemption. (Prior code 3.40.080; Ord. 1266 §2, 2007; Ord. 1288 §1, 2008)

Sec. 4-4-90. Records and audits; investigations.

(a) It shall be the obligation and duty of every taxpayer required to collect and remit the excise tax imposed under this Article to keep accurate and suitable records of all transactions subject to the tax, along with such other books, accounts and records as may be necessary to determine the amount of any tax liability. All records and books, inclusive of invoices or other rental or purchase receipts, shall be preserved for a period of three (3) years, and all such records, books and accounts shall be open for examination at any time by the Finance Director.

(b) For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due, the Town may audit the business records and examine all relevant books, papers, accounts or memoranda of any taxpayer at his or her place of business, or elsewhere, and it shall be the duty of such taxpayer to make such relevant information available during reasonable hours for examination by the Town. In the event the Town cannot ascertain the correctness of a return or the amount of tax due by such examination, the Town may conduct further investigations and hearings concerning any matter covered by this Article. Both the Finance Director and Town Manager shall have the power to administer oaths to such persons, and depositions of witnesses may be taken and offered in the manner prescribed by law or judicial rule for depositions in civil actions in courts of this State. To the ends described hereinabove, the attendance of witnesses and the production of records and other tangible things may be compelled by subpoena issued by the Finance Director and/or Town Manager, such subpoenas to be enforceable by order of the Municipal Court. If the results of an audit or investigation indicates that taxes paid or reported were in excess or less than what was due, the procedures set forth in Subsections 4-4-70(b) and (c) in this Article addressing tax overpayments and underpayments, respectively, shall be followed. (Prior code 3.40.090; Ord. 1288 §1, 2008)

Sec. 4-4-100. Failure to collect tax or file return; recovery of tax deficiencies.

(a) All sums of money paid as taxes imposed under this Article shall be and remain public funds and the property of the Town, and all vendors or other persons collecting the same shall hold the funds in trust for the sole use and benefit of the Town until paid to the Town.

(b) If a taxpayer neglects or refuses to collect or pay the tax imposed under this Article, or neglects or refuses to make a return, the Finance Director shall make an estimate of the amount of the tax due for the period for which the taxpayer is delinquent based upon the information that may be available, and shall add thereto a penalty equal to ten percent (10%) of the delinquent amount unless the delinquency is found to be due to fraud or an intent to evade the tax, in which case the penalty shall be one hundred percent (100%) of the delinquent amount, plus interest at one percent (1%) per month on both the delinquent amount and the penalty from the date when the taxes were due. Promptly thereafter, the Finance Director shall provide to the delinquent taxpayer a written delinquency notice of such estimated tax, along with the penalty and interest applicable thereto, which notice shall be sent by certified mail to the last address for the taxpayer on record with the Town. The notice shall also set forth in clear and conspicuous type that the delinquent taxpayer has the right to elect a hearing on the deficiency before the Town Manager. Such estimate shall thereupon become an assessment and the amount therein shall be final and due and payable from the taxpayer to the Town twenty (20) days from the date of mailing; provided, however, that, within said twenty-day period, the delinquent taxpayer may appeal the assessment to the Town Manager for a modification or other action. Any appeal must be filed in writing with the Town Manager, with a copy to the Finance Director, and shall describe in plain language the grounds for such appeal and the relief requested from the assessment.

(c) When a timely appeal is filed in accordance with this Section, no further enforcement action will be instituted by the Town on such portion of the assessment being appealed, unless the taxpayer fails to pursue the appeal.

(d) If any taxes, penalty or interest imposed by this Article and shown due by returns filed by a taxpayer, or as shown by assessments duly made as provided herein, are not paid within five (5) days after the same are due, the Finance Director shall issue a notice setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the Town claims a first and prior lien therefor on the real and tangible personal property of the taxpayer; except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice as herein provided on property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer. Said notice shall be on forms prepared by the Finance Director, shall be verified by him or her or by any duly qualified agent of the Town whose duties are the collection of such tax, and may be filed in the office of the clerk and recorder of any county in the State in which the taxpayer owns real or tangible personal property. The filing of such notice shall create a lien on such property in that county and constitute a notice thereof. After said notice has been filed, or concurrently therewith, or at any time when taxes due are unpaid, whether such notice is filed or not, the Town may issue a warrant directed to any duly authorized revenue collector or to the sheriff of any county in the State commanding him or her to levy upon, seize and sell sufficient of the real and personal property of the tax debtor found within his or her county for the payment of the amount due, together with interest, penalties and costs, subject to valid pre-existing claims or liens as above provided.

(e) When performing under this Section, revenue collectors or sheriffs shall levy upon sufficient property of the taxpayer, or on property used by such taxpayer in conducting his or her

business, and said property so levied upon shall be sold in all respects, with like effect and in the same manner as is prescribed by law in respect to executions against property upon a judgment of a court of record, and the remedies of garnishments shall apply. The sheriff shall be entitled to such fees in executing such warrants as are allowed by law for similar services.

(f) Any lien for taxes shown on the records of a county clerk and recorder as herein provided shall, upon the payment of all taxes, penalties and interest covered thereby, be released by the Town in the same manner as mortgages or judgments are released.

(g) The Town may treat any taxes, penalties or interest due and unpaid as a debt due the Town from the taxpayer. In the case of a failure to pay the tax or any portion thereof, or any penalty or interest thereon when due, the Town may recover at law the amount of such taxes, penalties and interest in any county or district court of the county wherein the taxpayer resides, or has his or her principal place of business, and having jurisdiction of the amounts sought to be collected. The return of the taxpayer or the assessment made by the Town, as herein provided, shall be prima facie proof of the amount due. Such actions may be actions in attachment, and writs of attachment may be issued to the sheriff. In any such proceeding, no bond shall be required of the Town, nor shall any sheriff require of the Town an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings; and the Town may prosecute appeals in such cases without the necessity of providing bond therefor. It shall be the duty of the Town Attorney when requested by the Town Manager to commence an action for the recovery of taxes due under this Article, and the remedy shall be in addition to all other existing remedies, including the remedies provided in this Article.

(h) In any action affecting the title to real estate or the ownership or rights to possession of personal property upon which the Town has asserted a lien, the Town may be made a party defendant for the purpose of obtaining a judgment or determination of its lien upon the property involved therein. (Prior code 3.40.100; Ord. 1266 §3, 2007; Ord. 1288 §1, 2008)

Sec. 4-4-110. Tax lien.

(a) The tax imposed by this Article shall be a first and prior lien upon the goods and business fixtures of, or used by, any taxpayer under lease, title-retaining contract or other contract arrangement, excepting stocks of goods sold or for sale in the ordinary course of business, and shall take precedence on all such property over other liens or claims of whatsoever kind or nature.

(b) Any taxpayer who sells out his or her business or stock of goods, or quits business, shall be required to make out the return as provided in this Article within ten (10) days after the date the business or stock of goods is sold or the business is closed; and his or her successor in business shall be required to withhold sufficient money from the purchase price to cover the amount of any taxes due and unpaid under this Article until such time as the taxpayer produces a receipt from the Town showing that the taxes have been paid, or a certificate that no taxes are due. (Prior code 3.40.110; Ord. 1288 §1, 2008)

Sec. 4-4-120. Appeals to Town Manager.

(a) Any taxpayer aggrieved by a decision of the Finance Director to make an assessment or deny a refund or exemption under this Article may appeal the same to the Town Manager. All appeals shall be made in writing, shall set forth in plain language the basis for the appeal and the relief sought, and must be delivered to the Town Manager within twenty (20) days from the date of the decision appealed from. The taxpayer shall also deliver a copy of the notice of appeal to the Finance Director. The Town Manager shall notify the taxpayer in writing of the time and place fixed for a hearing on the appeal at least ten (10) days in advance thereof.

(b) The hearing before the Town Manager shall be informal and no transcript, rules of evidence or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the Finance Director may submit a brief. The Town Manager shall hold such hearing and issue the final decision thereon within ninety (90) days after receipt of the taxpayer's written notice of appeal; however, the Town Manager may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer. In any such event, the Town Manager shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor.

(c) A taxpayer aggrieved of a decision made by the Town Manager under this Section may choose to pursue judicial review in the District Court in and for the County.

(d) The Town Manager may abate any penalty or interest on any assessment or deficiency for good and just cause if the taxpayer submits a written request for such abatement not less than two (2) business days before payment of the penalty or interest is due. All abatement decisions must be reduced to writing and promptly placed in the tax records for the taxpayer on file with the Town. (Prior code 3.40.120; Ord. 1266 §4, 2007)

Sec. 4-4-130. Administration of tax collections; authority of Finance Director.

The administration of this Article is hereby vested in the Finance Director, who shall have the following powers and authority:

(1) To render written interpretations of the provisions in this Article and any administrative rules or regulations adopted pursuant thereto.

(2) To prescribe forms and administrative procedures for the ascertainment, assessment and collection of the tax.

(3) To formulate and promulgate appropriate regulations to effectuate the purpose of this Article, except that any such regulations shall not become effective until the same have been reviewed and approved by the Town Council at a noticed public hearing.

(4) To require any taxpayer or person to make additional returns, render statements, furnish records or make informational reports to determine whether or not such taxpayer or other person is liable for the collection or payment of a tax.

(5) To administer oaths and take testimony.

(6) To designate agents to assist in the performance of the duties and responsibilities set forth in this Article.

(7) To issue subpoenas for witnesses and/or for the production of books, accounts and records required to be kept under the provisions of this Article, such subpoenas to be served in accordance with the Colorado Municipal Court Rules of Procedure, including the payment of fees. In the event a duly served subpoena is not honored, the Finance Director may request the Town Attorney to seek the enforcement of the same in the Municipal Court.

(8) To maintain and make available to any person a current map showing the boundaries of Town, which map can be relied upon by taxpayers and vendors for the purpose of collecting the tax imposed under this Article. (Prior code 3.40.130)

Sec. 4-4-140. Tax information confidential.

(a) All specific information gained under the provisions of this Article which is used to deter-

mine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential.

(b) Except in accordance with judicial order, or as otherwise provided by law, neither the Town nor any official or employee thereof shall divulge or make known in any way any information disclosed in any document, report or return filed under this Article, except such information as is displayed on a tax license. Town personnel charged with the custody of documents, reports or returns shall not be required to produce any of them, or evidence of anything contained in them, in any action or proceeding in any court, except on behalf of the Town in an action or proceeding under the provisions of this Article when the report of a fact shown thereby is directly involved in such action or proceedings. In either of such events, the court may require the production of, and may admit into evidence, so much of said reports or the facts shown thereby, as are pertinent to the action or proceeding.

(c) Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a copy of any return or report filed by him or her in connection with his or her own tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereon, nor to prohibit their inspection, reproduction and use by the Town in the administration and enforcement of this Article.

(d) Notwithstanding any other provision in this Section, the Finance Director may furnish to taxing officials of the State or its political subdivisions, any other state or political subdivision, or the United States, any information contained in tax returns and related documents filed pursuant to this Article, or in the report of an audit or investigation made with respect to a return, if the recipient jurisdiction agrees to grant similar privileges to the Town, and provided that such information shall be used by the recipient jurisdiction only for tax purposes. (Prior code 3.40.140; Ord. 1288 §1, 2008)

Sec. 4-4-150. Limitations.

No taxes for any period, together with any interest thereon and/or penalties with respect thereto, may be assessed, nor shall any notice of lien be filed, distraint warrant issued or suit for collection be instituted, nor shall any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable to the Town; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which case such lien shall continue only for one (1) year after the filing of notice thereof. Before the expiration of such period of limitation, the taxpayer and the Town may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing. In the case of a false or fraudulent return made with intent to evade a tax, or where no return was filed for the same purpose, the tax, together with interest and penalties thereon, may be assessed, and/or proceedings for the collection of such taxes may be begun, at any time. (Prior code 3.40.150)

Sec. 4-4-160. Revenue dedication; Airline Guaranty Program Fund.

(a) All moneys deposited into the Airline Guaranty Program Fund, as created in Section 4-1-10 of this Chapter, shall, subject to duly adopted appropriation made by the Town Council from year to year, be expended exclusively to support, enhance and expand commercial and/or charter airline service to the Telluride and Montrose regional airports, inclusive of providing funding for the airline guaranty program administered by the Telluride/Montrose Regional Air Organization, a not-for-profit organization established under Section 501(c)(6) of the Internal Revenue Code, or its successor organization, such organization having been created and charged with the responsibility to effectively secure and maintain

commercial air service into the Telluride/ Mountain Village/Montrose Region in a fiscally responsible manner; except that, in the event the Town Council is prohibited or otherwise precluded from appointing and/or maintaining representation on behalf of the Town of Telluride on the governing body of such organization or its successor, or the Town Council determines that funds provided for the airline guaranty program are not being expended for the purposes or in the manner for which they were appropriated, then the dedication and expenditure of moneys derived from the two-percent excise tax provided for in this Article to fund the airline guaranty program shall terminate.

(b) Notwithstanding any other provision of this Section, not more than two percent (2%) of the tax revenues annually deposited into the Airline Guaranty Program Fund may be retained by the Town to offset tax collection costs and as an administration and management fee. (Prior code 3.40.160; Ord. 1288 §1, 2008)

Sec. 4-4-170. Sunset and repealer.

Pursuant to the terms of the ballot question voted upon and approved by the Town electorate at the regular municipal election conducted on November 4, 2003, and absent a prior countervailing amendment or a repeal of this Section, the imposition of the two-percent excise tax provided for under this Article shall automatically sunset and be repealed effective upon the first day following the termination of the airline guaranty program, or such similar successor program, described in Section 4-4-160 above. (Prior code 3.40.170)

Sec. 4-4-180. Violations; penalty.

(a) It is unlawful for any person to violate any provision contained within this Article, or to fail to perform any affirmative duty set forth therein, including but not limited to failing to obtain a license or timely file a return or pay a tax when due, or making a false statement with respect to any tax form, report or record.

(b) Each person shall be guilty of a separate offense for each and every day, or portion thereof, on which a violation of this Article occurs and/or continues, and such person shall be punished accordingly.

(c) Every person found to have violated any provision of this Article, or who pleads guilty or no contest to any violation, shall be punished in accordance with the provisions of Section 1-4-10 of this Code. (Prior code 3.40.180; Ord. 1288 §1, 2008)

ARTICLE 5

Property Tax

Sec. 4-5-10. Revenue dedication.

Twenty percent (20%) of the unencumbered revenues collected and received by the Town pursuant to the annual levy of general ad valorem property taxes on real property as authorized under Section 12.1 of the Town Charter shall be dedicated to and deposited in a separate Open Space Fund as established under Section 4-1-30 of this Code. For purposes of this Section, *unencumbered revenues* means those tax revenues not already pledged or dedicated to debt service or obligations created or in effect prior to the collection of said revenues. In no event shall revenues dedicated and transferred into the Open Space Fund exceed twenty percent (20%) of the total annual property tax revenues collected and received by the Town in any given year absent the express prior authorization of the Town Council by ordinance or resolution. (Prior code 3.30.010; Ord. 1288 §1, 2008)

Sec. 4-5-20. Museum tax revenue dedication.

(a) Unencumbered tax revenues in an amount equal to those generated by the levy of 0.33 mills, and remitted to the Town less any administration fees imposed by the County, pursuant to the annual levy of general ad valorem taxes on real property, as authorized by the Town electorate at the November 2, 2004 special election, shall be dedicated and used exclusively to support the operation and maintenance of the Telluride Historical Museum, including staffing, preserving artifacts, managing exhibits, marketing and maintaining the historic miners' hospital building.

(b) Subject to annual appropriation, such unencumbered tax revenues shall be remitted upon receipt by the Town to the Telluride Historical Museum, Inc., provided that:

(1) The bylaws of the Telluride Historical Museum, Inc., provide for an elected representative of the Town to sit on the Board of Directors of the Telluride Historical Museum, Inc.;

(2) The Board of Directors report annually to the Town on its budget and operations no later than March 1 of each year for the previous year; and

(3) The financial information of the Telluride Historical Museum, Inc., be made available for public inspection upon reasonable request.

(c) If at any time the Town Council determines that the Telluride Historical Museum is no longer functioning as an historical museum or that the Telluride Historical Museum, Inc., has lost its not-for-profit status or has failed to use the funds so remitted for the purposes described herein and fails to remedy these conditions, the Town Council may, by ordinance, rescind the 0.33 mill levy.

(d) For purposes of this Section, *unencumbered tax revenues* means those tax revenues not already pledged or dedicated to debt service or obligations created or in effect prior to the collection of said tax revenues.

(e) It is hereby declared that the property tax mill levy described in this Article, as approved by the Town electorate, is not for "municipal purposes" and that Section 12.1 of the Town Charter is therefore inapplicable thereto. If for any reason a court of competent jurisdiction shall hold otherwise, any unencumbered tax revenues in excess of the limits imposed by Section 12.1 of the Town Charter that have been remitted to the Telluride Historical Museum, Inc., shall be refunded to the Town or, if not so refunded, shall be credited against the obligation of the Town to remit future unencumbered tax revenues to the Telluride Historical Museum, Inc. (Prior code 3.30.020; Ord. 1288 §1, 2008)

ARTICLE 6

Procurement Code

Division 1
General Provisions

Sec. 4-6-10. Purpose.

(a) Purposes and policies. The underlying purposes and policies of this Article are:

(1) To simplify, clarify and standardize the law governing procurement by the Town;

(2) To provide for increased public confidence in the policies and procedures followed by Town employees engaged in the procurement of goods and services for the Town;

(3) To ensure the fair and equitable treatment of all persons who interact within the procurement system of the Town;

(4) To provide increased economy in Town procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the Town;

(5) To provide safeguards for the maintenance of a procurement system of quality and integrity; and

(6) To contract with qualified local contractors when economically feasible.

(b) Interpretation. This Article shall be construed and applied to promote its underlying purposes and policies. (Prior code 17.01.010)

Sec. 4-6-20. Procurement contrary to Article.

Except as otherwise may be provided by law, it is unlawful for any officer or employee of the Town to make a procurement contrary to the provisions of this Article. Any procurement or contract so made shall be void and wholly without effect and shall not be binding upon the Town in any manner. (Prior code 17.01.020; Ord. 1288 §1, 2008)

Sec. 4-6-30. Requirement of good faith.

This Article requires all parties involved in the negotiation, performance or administration of Town contracts to act in good faith. (Prior code 17.01.030)

Sec. 4-6-40. Application of provisions.

This Article shall apply to every expenditure of Town funds irrespective of their source, including federal assistance moneys, by the Town, except that this Article shall not apply to either grants or contracts between the Town and other governments. Nothing in this Article or in regulations promulgated hereunder shall prevent the Town from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement. (Prior code 17.01.040)

Sec. 4-6-50. Definitions.

The words defined in this Section shall have the meanings set forth below whenever they appear in this Article, unless the context in which they are used clearly requires a different meaning, or a different definition is prescribed for a particular article or provision:

Brand name means a specification limited to one (1) or more items by manufacturer's name or catalog number.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

Change order means a written order signed by a department head, modifying an existing contract to authorize, within the scope of work, additions or deletions to the work or an adjustment to any other provision of the contract.

Construction means the process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind, to any public real property. It does not include the routine operations, routine repair or routine maintenance of existing structures, buildings or real property.

Contract means any agreement enforceable by law between the Town and one (1) or more outside parties, regardless of form or title, for procurement of supplies, services or construction.

Contract modification means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity or other provisions of any contract accomplished by mutual action of the parties to the contract. Before a contract is executed, modifications are typically processed as an addendum to the invitation for bids or request for proposals; after the contract is executed, modifications are processed as change orders.

Contractor means any person having a contract with the Town.

Cost reimbursement contract means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and provisions of this Article, and a fee if any.

Data means recorded information, regardless of form or characteristic.

Department head means the person in charge of each major administrative division of the Town who has overall management responsibility for an operation or group of related operations within a functional area, as determined by the Town Manager. Any authority for procuring supplies, services or construction granted to department heads pursuant to this Article are intended to be granted similarly to Assistant Town Managers and project managers.

Designee means a duly authorized representative of a person holding a superior position.

Employee means an individual drawing a salary from the Town.

Established catalog price means the price included in a catalog, price list, schedule or other form that:

a. Is regularly maintained by a manufacturer or contractor;

b. Is either published or otherwise available for inspection by customers; and

c. States prices at which sales are currently or were last made to a significant number of any category of buyers constituting the general buying public for the supplies or services involved.

Grant means the furnishing by the Town of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of supplies, services or construction; a contract resulting from such an award is not a grant but a procurement contract.

Invitation for bids means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

Legal services means the advice, representation, document preparation or related services of an attorney as special counsel provided to the Town upon the request of the Town Attorney.

Litigation services means professional or other services procured by the Town Attorney

for the purpose of evaluating, preparing, providing or presenting evidence at the trial of any lawsuit to which the Town is a party. *Litigation services* shall not include legal services.

May denotes the permissive.

Person means any business, individual, union, committee, club or other organization or group of individuals.

Procurement means buying, purchasing, renting, leasing or otherwise acquiring any supplies, services or construction. It also includes all functions that pertain to the obtaining of any supply, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration. *Procurement* shall not include the buying, purchasing, renting or leasing of real property.

Procurement officer means the Finance Director.

Professional services means the furnishing of labor, time, effort or expertise by a contractor with specialized knowledge in a field, including but not limited to architecture, engineering, medicine, finance, accounting, appraisal and land surveying.

Public notice means any publication reasonably calculated to inform responsible bidders or offerors. Public notice shall occur for a reasonable time and may be disseminated through any means of mass communication, including but not limited to newspapers, other written publications, posting, television, radio, other broadcasting media and electronic billboards.

Purchase description means the word used in a solicitation to describe the supplies, services or construction to be purchased, and includes specifications attached to or made part of the solicitation.

Regulation means a governmental statement, having general or particular applicability and future effect, designed to implement, interpret or prescribe law or policy, or describing organization, procedure or practice requirements.

Request for proposals means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Responsible bidder or offeror means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability that will assure good faith performance.

Responsive bidder means a person who has submitted a bid which conforms in all material respects to the invitation for bids or requests for proposals.

Services means the performance of maintenance or the furnishing of labor, time or effort that does not involve the delivery of a specific end product other than a report or other item which is merely incidental to the performance of the service. *Services* shall not include services rendered under an employment agreement, nor shall it include professional services as that term is defined in this Section.

Shall denotes the imperative.

Small purchase means any procurement not exceeding fifty thousand dollars ($50,000.00).

Specification means any description of the physical or functional characteristics of or the nature of the supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery or a procedure for determining whether the requirements are satisfied.

Supplies means all property, including but not limited to equipment, materials, printing,

insurance and leases of real property, excluding land or permanent interest in land.

Surplus supplies means any supplies no longer having any use to the Town. This includes obsolete supplies, scrap materials and nonexpendable supplies that no longer have a useful life or purpose.

Sustainable procurement means integrating sustainability considerations into supplies, services and construction selections so that impacts on society and the environment are minimized. (Prior code 17.01.050; Ord. 1264 §1, 2007; Ord. 1288 §1, 2008)

Sec. 4-6-60. Public access to procurement information.

Procurement information shall be a public record to the extent provided by law and shall be available to the public as provided by law. (Prior code 17.01.060)

Sec. 4-6-70. Specifications.

(a) Intent. All specifications, including but not limited to design, performance and brand name specifications, shall be drafted so as to provide a clear and concise description of the supply, service or construction.

(b) Preparation. Before appropriate approvals are obtained in accordance with Section 4-6-140 of this Article, the department head shall cause to be prepared written specifications detailing the Town's requirements for the supplies, services or construction.

(c) Brand name specifications. A brand name specification may be used when the Procurement Officer has determined that sufficient sources for competition exist for the procurement of the supply and that the use of the brand name specification is not intended to limit or restrict competition. A brand name specification may also be used to describe the standard of quality, performance and other salient characteristics. In such cases, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard desired and that the substitution of equivalent supplies is permitted. (Prior code 17.01.070)

Division 2
Procurement Organization and Authority

Sec. 4-6-110. Authority and duties of Town Manager.

(a) The Procurement Officer shall perform those duties set forth in this Article with respect to procurement on behalf of the Town of supplies, services or construction.

(b) Except as otherwise provided in this Article, the Town's Personnel Policies and Procedures and the Ethics Code provided at Chapter 2, Article 4 of this Code, the Town Manager shall have the authority and responsibility to promulgate regulations consistent with this Article, governing the procurement, management, control and disposal of any and all supplies, services and construction to be procured by the Town.

(c) No regulation shall change any commitment, right or obligation of the Town or of a contractor under a contract in existence on the effective date of such regulation. The Town Manager shall consider and decide matters of policy within the provisions of this Article. (Prior code 17.02.010; Ord. 1288 §1, 2008)

Sec. 4-6-120. Duties of department heads and Procurement Officer.

(a) Department heads shall, in accordance with regulations and policies which may be promulgated by the Town Manager, work closely with the Procurement Officer and other department heads to ensure compliance by all employees and departments of the Town with the provisions of this Article and any regulations which may be promulgated pursuant thereto.

(b) Except as otherwise provided in this Article, the Procurement Officer shall, in accordance with regulations and policies that may be promulgated by the Town Manager:

(1) Establish a mandatory fixed asset tracking system;

(2) Act to procure for the Town the highest quality in supplies, services and construction at the least expense to the Town consistent with the provisions of this Article and regulations promulgated pursuant to this Article by the Town Manager;

(3) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales;

(4) Establish and maintain procedures for the inspection, testing and acceptance of supplies, services and construction;

(5) Explore the possibilities of "bulk purchasing" so as to take full advantage of discounts;

(6) Act so as to procure for the Town all federal, state and local tax exemptions to which it might be entitled;

(7) Cooperate with other departments so as to secure for the Town the maximum efficiency in budgeting and accounting;

(8) Have the authority, upon approval of the Town Manager, to identify irresponsible bidders and to begin disqualification proceedings against them in accordance with this Code;

(9) Endeavor to make purchases of recycled materials and other supplies that preserve, to the maximum extent possible, the environment and minimize energy consumption for their production or use;

(10) Endeavor to solicit and encourage locally owned businesses and suppliers to participate in the Town's procurement process; and

(11) As outlined in the Town's DBE/SBE Program, endeavor to solicit and encourage local, minority and women-owned businesses and suppliers to participate in the Town's procurement process. (Prior code 17.02.020; Ord. 1288, 2008)

Sec. 4-6-130. Authority of Town Attorney.

The Town Attorney shall have the same authority with respect to procurements for the Town Attorney's office as set forth herein for the Town Manager. Notwithstanding any provision to the contrary in this Article relating to competition or otherwise, the Town Attorney shall have the authority to contract for legal services and litigation services, as defined herein, by any method that the Town Attorney believes is in the Town's best interests. (Prior code 17.02.030)

Sec. 4-6-140. Approvals.

No procurement shall be made without the completion of a purchase order to be approved as follows, and unless sufficient funds are available in the appropriate budget for the items purchased, and the items to be purchased have been specifically budgeted for:

(a) Town Manager. All procurements of supplies subject to the terms of this Article and all procurements of professional services and construction in excess of two thousand dollars ($2,000.00) shall be approved by both the department head and Town Manager.

(b) Department heads. Department heads shall have the authority to approve procurements in an amount which does not exceed two thousand dollars ($2,000.00) for supplies, professional services or construction, without the prior approval of the Town Manager.

(c) No procurement shall be divided so as to avoid the approvals that would otherwise be required by the above. (Prior code 17.02.040; Ord. 1366, 2012)

Sec. 4-6-150. Formal contract procedure.

Except as otherwise provided herein, all procurement in excess of fifty thousand dollars ($50,000.00), or whenever a department head or the Town Manager requests the same, shall be purchased by formal written contract approved as to form by the Town Attorney. (Prior code 17.02.050)

Sec. 4-6-160. Business license required.

No procurement shall be made with any person or entity required to have a Town business license until the required license has been obtained. (Prior code 17.02.060)

Division 3
Source Selection and Contract Formation

Sec. 4-6-210. Methods of source selection.

(a) Unless otherwise authorized by law, all Town contracts shall be awarded by competitive sealed bidding, pursuant to Section 4-6-220 below, except as provided in Sections 4-6-230, 4-6-240, 4-6-250, 4-6-260 and 4-6-270 below.

(b) Preference shall be given in the procurement of supplies and services produced, manufactured, sold, distributed or grown in the Town, if such preference is not for supplies or services of inferior quality to those offered by competitors outside of the Town; and in the procurement of services and construction contracts to bidders with offices or a place of business located within the Town if all other evaluation criteria set forth herein or in the invitation for bids or requests for proposals are equal to bidders with offices located outside the Town. Secondary preference may be given by the Town in procurement of supplies and services produced, manufactured, sold, distributed or grown in the R-1 School District if such preference is not for supplies or services of inferior quality to those offered by competitors outside of the District; and in the procurement of services and construction contracts to bidders located in the R-1 School District if all other evaluation criteria set forth herein, or in the invitation for bids or requests for proposals, are equal to bidders located outside of the District. For any procurement, the preference given pursuant to this Subsection may be in an amount not to exceed five percent (5%) of the total price.

(c) Preference shall be given in the procurement of recycled materials and other supplies that preserve, to the maximum extent possible, the environment and minimize energy consumption for their production or use. For any procurement, the preference given pursuant to this Subsection may be in an amount not to exceed three percent (3%) of the total price. (Prior code 17.03.010; Ord. 1288, 2008; Ord. 1366, 2012)

Sec. 4-6-220. Competitive sealed bidding.

(a) Conditions for use. Contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 4-6-210 above or if the Town Manager provides by regulation or policy that it is either not practicable or not advantageous to the Town to procure specified types of supplies, services or construction by competitive sealed bidding.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement. The purchase description shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Town's needs, and it shall not be unduly restrictive.

(c) Public notice. Adequate public notice of the invitation for bids shall be given a reasonable time prior to the date set forth therein for the opening of bids. If a state or federal law or regulation controls the procurement process for any

particular purchase, adequate public notice may be mandated by applicable state or federal laws or regulations. In the absence of exigent or emergency circumstances described in Section 4-6-260 below, *adequate notice* shall mean publication of a public notice which summarizes the invitation for bids to the Town of Telluride Web Site with at least one (1) publication (1) one week prior to the date set forth therein for the opening of bids. (Ord. 1329, 2010)

(d) Bid opening. Bids shall be opened publicly in the presence of two (2) or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by regulation, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection.

(e) Facsimile transmission. Facsimile transmissions may be accepted for either bids or corrections to previously submitted bids. The Town, by receiving facsimile transmissions, makes no representation with respect to its ability to maintain the confidentiality of the contents of such transmissions.

(f) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Article. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. In addition to the evaluation criteria set forth in the invitation to bid, the following criteria shall also be considered. In all instances, the criteria set forth in the invitation to bid, if applicable, and the below criteria shall be considered in addition to price:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service or construction required;

(2) Whether the bidder can perform the contract or provide the service or construction promptly, or within the time specified, without delay or interference;

(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(4) The quality of performance of previous contracts with the Town or services provided to the Town or the quality of previous contracts or services provided to other parties and verified to the Procurement Officer during a check of references;

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

(6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service or construction;

(7) The quality, availability and adaptability of the supplies, services or construction to the particular use required;

(8) The bidder's demonstrated commitment to the most environmentally sound practices as well as its commitment to the Town's sustainability goals.

(9) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and

(10) The preferences set forth at Subsections 4-6-210(b) and (c) above.

(g) Correction or withdrawal of bids; cancellation of award. Correction or withdrawal of inadvertently erroneous bids before or after

award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the department head and approved by the Town Attorney.

(h) Award. The contract shall be awarded with reasonable promptness by written notice to the responsible and responsive bidder whose bid best meets the requirements and criteria set forth at Subsection (f) above and in the invitation for bids if applicable in addition to price. In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer of the Town, and the low responsible and responsive bid does not exceed such funds by more than ten percent (10%), the department head is authorized, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements with the low responsible and responsive, in order to bring the bid within the amount of available funds. If the low responsible and responsive bid exceeds available funds by ten percent (10%) or more, the Town Manager may authorize the department head to negotiate an adjustment of the bid price after determining in writing that such action is in the best interests of the Town. Even if the lowest bid does not exceed available funds a department head, with the Town Manager's prior approval, shall have the authority, consistent with the general underlying purposes and policies of this Article as set forth at Subsection 4-6-10(a) of this Article and in the best interests of the Town, to negotiate with the lowest responsible and responsive bidder to adjust the bid price, alter the quantity or quality of supplies to be procured, or alter the scope of services or construction to be provided.

(i) Multi-step sealed bidding. When considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. (Prior code 17.03.020; Ord. 1264 §§2, 3, 2007; Ord. 1288 §1, 2008; Ord. 1366, 2012)

Sec. 4-6-230. Competitive sealed proposals.

(a) Conditions for use. Procurement for the following is eligible for award by competitive sealed proposals:

(1) When a department head determines that the use of competitive sealed bidding is either not practicable or not advantageous to the Town, a contract may be entered into by competitive sealed proposals. The Town Manager may provide by regulation or policy that it is either not practicable or not advantageous to the Town to procure specified types of supplies, services or construction by competitive sealed bidding; or

(2) For professional services in excess of fifty thousand dollars ($50,000.00).

(b) Requests for proposals. Proposals shall be solicited through a request for proposals. The request for proposals shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Town's needs, and it shall not be unduly restrictive.

(c) Evaluation factors. The request for proposals shall state the relative importance of price and other evaluation factors.

(d) Discussion with responsible offerors and revisions to proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revi-

sion of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(e) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Town, taking into consideration price and the evaluation factors set forth at Subsection 4-6-220(f) above. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. (Prior code 17.03.030; Ord. 1366, 2012)

Sec. 4-6-240. Small purchases.

(a) Small purchases. Any procurement not exceeding fifty thousand dollars ($50,000.00) may be made by the department head by negotiation without formal competition for the purchase of supplies, services or construction, subject to the approval process required by Section 4-6-140 of this Article.

(b) Negotiated procurement. Negotiated procurement pursuant to this Section shall be made on the open market, but whenever practical or advantageous, the department head shall obtain quotes from at least three (3) suppliers or vendors. Negotiated procurement shall be awarded to the person supplying the lowest responsible bid or offer.

(c) Division of procurement. No contract shall be divided so as to constitute a small purchase under this Section.

(d) In instances of multiple year contracts, the cumulative cost of procurement over the initial contract period, not including renewal periods, shall not exceed fifty thousand dollars ($50,000.00). (Prior code 17.03.040; Ord. 1288, 2008; Ord. 1366, 2012)

Sec. 4-6-250. Miscellaneous exemptions.

A contract may be awarded for a supply, service or construction item without competition when one (1) or more of the following conditions exist.

(a) There exists only one (1) responsible source;

(b) Although there exists more than one (1) responsible source, a competitive process cannot reasonably be used or, if used, will result in a substantially higher cost to the Town, will otherwise injure the Town's financial interests or will substantially impede the Town's administrative functions or the delivery of services to the public, or provide uniform and economical repair and maintenance;

(c) A particular supply or service is required in order to standardize or maintain standardization for the purpose of reducing financial investment or simplifying administration;

(d) The supply is perishable;

(e) The supply qualifies as an object of fine art;

(f) A particular supply is required to match supplies in use;

(g) A particular supply is required to enable use by a specific individual;

(h) A particular supply is prescribed by a professional advisor;

(i) The contract is for purchases from federal, state or other local governments;

(j) The contract is for cleanup and disposal of hazardous materials;

(k) The contract is for CIRSA coverage or for insurance procured through a broker;

(l) The contract is for an employee assistance program;

(m) The product or service is required to maintain interchangeability or compatibility as part of an existing integrated system;

(n) The supply, service or construction is the subject of a change order to an existing contract for construction which does not exceed a cumulative cost of five percent (5%) of the original contract awarded pursuant to an invitation for bids;

(o) The supply, service or construction is the subject of a change order to an existing contract for construction which does exceed a cumulative cost of fifteen percent (15%) of the original contract awarded pursuant to an invitation for bids and the Town Manager determines that it is either not practicable or not advantageous to the Town to procure the additional supply, service or construction by competitive sealed bid; and/or

(p) In any case where the Town has, within the preceding two (2) years, pursuant to an invitation to bid, awarded a contract for the procurement of any supply, service or construction on a unit price basis, the Procurement Officer may negotiate with the successful bidder for the purchase of additional quantities of the supply, units of service or construction. No such procurement shall be made at a price higher than the previous award adjusted by the Denver/Boulder Consumer Price Index. (Prior code 17.03.050)

Sec. 4-6-260. Emergency procurement.

(a) Notwithstanding any other provision of this Article, in the case of an apparent emergency which threatens the public health, welfare or safety, requiring the immediate purchase of a supply, service or construction, the Town Manager shall have the power to authorize a department head to secure the necessary items in the open market without competition regardless of the amount of the expenditure.

(b) In no event shall the contract price exceed commercially reasonable prices.

(c) A full written report of the circumstances of all emergency purchases over fifty thousand dollars ($50,000.00) shall be made by the Town Manager to the Town Council. The report shall be received by the Town Council at a regular meeting, and such report shall be open to public inspection. (Prior code 17.03.060)

Sec. 4-6-270. State, federal or CML bid.

A contract may be awarded for a supply, service or construction item on the terms and to the contractors that have been selected under a federal, state or Colorado Municipal League competitive bid system for use by local government. Consideration should be given in all instances to the possible procurement by this method. (Prior code 17.03.070)

Sec. 4-6-280. Cancellation of invitations for bids or requests for proposals.

An invitation for bids, a request for proposals or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part, at the sole discretion of the Town. (Prior code 17.03.080)

Sec. 4-6-290. Responsibility of bidders and offerors.

A written determination of nonresponsibility of a bidder or offeror may be made by the Procurement Officer upon reasonable grounds. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. (Prior code 17.03.090)

Sec. 4-6-300. Prequalifications of suppliers.

Prospective suppliers may be prequalified for particular types of supplies, services and construction. Solicitation mailing lists of potential contractors shall include but shall not be limited to such prequalified suppliers. (Prior code 17.03.100)

Sec. 4-6-310. Bid security.

(a) Requirement for bid security. When deemed necessary by a department head or the Procurement Officer, bid bonds or other equivalent security shall be required and the invitation for bids or request for proposals shall describe the requirements. Bid security shall be a bond provided by a surety company authorized to do business in the State, or the equivalent in cash or some other instrument in a form satisfactory to the Town.

(b) Amount of security bid. Bid security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(c) Rejection of bids for noncompliance with bid security requirements. When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply in an insubstantial manner with the security requirements.

(d) Withdrawal of bids. After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, except as provided in Subsection 4-6-220(g). If a bidder is permitted to withdraw its bid before award, no action shall be had against the bidder or the bid security.

(e) Forfeiture of security. Unsuccessful bidders or offerors shall be entitled to the return of any cash deposit following the execution of an agreement with the successful bidder. Unless a specific extension is granted in writing, a successful bidder or offeror shall forfeit any bid bond or equivalent security required by the department head upon its failure to enter into a contract within thirty (30) days after the award. (Prior code 17.03.110)

Sec. 4-6-320. Contract performance and payment bonds.

(a) When required; amounts. When a construction contract is awarded in excess of fifty thousand dollars ($50,000.00), or it is deemed necessary by the department head or the Town Manager, the following bonds or security shall be delivered to the Town and shall become binding on the parties upon the execution of the contract:

(1) A performance bond or other security satisfactory to the Town, executed by a surety company authorized to do business in the State, or otherwise secured in a manner satisfactory to the Town; and

(2) A payment bond or other security satisfactory to the Town, executed by a surety company authorized to do business in the State, or otherwise secured in a manner satisfactory to the Town, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract.

(b) Amount of bonds or other security. The amount of the performance and payment bonds or other security specified in Subsection (a) above shall be determined by the Town Manager. In determining the amounts required, the Town Manager shall weigh the following policy considerations:

(1) The Colorado State Legislature has determined that, for construction contracts in excess of fifty thousand dollars ($50,000.00), it is prudent to obtain performance and payment bonds in amounts equal to fifty percent (50%) of the price specified in the contract. (See Sections 24-105-202 and 38-26-106, C.R.S.).

(2) The Town has a policy of encouraging local, minority and women-owned businesses to participate in the Town's procurement process. The cost of obtaining performance and payment bonds may discourage local, minority and women-owned businesses from bidding on Town construction projects.

(3) It is in the Town's interest to ensure that construction projects will be completed according to the contract documents without the Town having to expend more than the contract amount.

(4) It is in the Town's interest to ensure that payment is made for all labor and materials supplied to Town construction projects by contractors and subcontractors.

(5) Certain construction projects may be required by state or federal law to be bonded in a particular manner or in a certain amount.

(6) Phasing of bond amounts should be considered, when appropriate, for projects that are constructed in discrete and identifiable phases. (Prior code 17.03.120)

Sec. 4-6-330. Bond form and copies.

(a) Bond forms. The Town Attorney may determine the form of the bonds required by this Article.

(b) Certified copies of bonds. Any person may request and obtain from the Town a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution and delivery of the original.

(c) All bonds shall be held by the Director of Finance. (Prior code 17.03.130)

Sec. 4-6-340. Type of contracts.

Subject to the limitations of this Section, any type of contract which will promote the best interests of the Town may be used. A cost reimbursement contract may be used only when a determination is made that such a contract is likely to be less costly to the Town than any other type or that it is impracticable to obtain the supplies, services or construction required except under such a contract. (Prior code 17.03.140)

Sec. 4-6-350. Multi-term contracts.

(a) Specified period. No contract for supplies, services or construction, including all renewals, shall be made by the Town for a period longer than three (3) years, and all multi-year contracts must be signed by the Town Manager. All contracts extending beyond one (1) year in duration shall be contingent upon and subject to duly enacted appropriations of the Town.

(b) Determination prior to use. Prior to the utilization of a multi-year contract, it shall be determined:

(1) That estimated requirements cover the period of the contract and are reasonably firm and continuing;

(2) That such a contract will serve the best interests of the Town by encouraging effective competition or otherwise promoting economies in Town procurement;

(3) That the contract beyond the first fiscal year shall be expressly contingent upon the annual budgeting and appropriation of sufficient funds on an annual basis or by nonlapsing appropriations; and

(4) That the contract clearly states that, when funds are not appropriated or otherwise made available to support the continuation of the Town's performance or obligations in a subsequent fiscal period, the contract shall be cancelled. (Prior code 17.03.150)

Sec. 4-6-360. Contract clauses.

The Town Attorney may require the inclusion in Town contracts of clauses providing for adjustments in prices, time of performance or other contract provisions, as deemed appropriate by the Town Attorney, and covering the following subjects:

(a) Liquidated damages as appropriate;

(b) Specified excuses for delay or nonperformance;

(c) Termination of the contract for default;

(d) Termination of the contract in whole or part for the convenience of the Town;

(e) Nondiscrimination;

(f) Insurance and indemnification requirements; and

(g) Notice of the applicability of the Procurement Code. (Prior code 17.03.160)

Sec. 4-6-370. Contract modifications and change orders; fiscal responsibility.

Every contract modification, change order or contract price adjustment under a contract with the Town shall be subject to prior written certification by the Town Manager as to the effect of the contract modification, change order or adjustment in contract price on the total project budget or the total contract budget. In the event that the certification discloses a resulting increase in the total project budget and/or the total contract budget, the department head shall not execute or make such contract modification, change order or adjustment in contract price unless sufficient funds are available therefor, or the scope of the project or contract is adjusted so as to permit the degree of completion that is feasible within the total project budget and/or total contract budget as it existed prior to the contract modification, change order or adjustment in contract price under consideration. (Prior code 17.03.170)

Sec. 4-6-380. Right to inspect plant.

The Town may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor that is related to the performance of any contract awarded or to be awarded by the Town. (Prior code 17.03.180)

Sec. 4-6-390. Right to audit records.

The Town shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing. (Prior code 17.03.190)

Sec. 4-6-400. Finality of determinations.

The determinations required by Subsections 4-6-220(f) and (g), Subsection 4-6-230(e), Section 4-6-250, Section 4-6-260, Section 4-6-290, Section 4-6-340 and Section 4-6-350 of this Article are final and conclusive unless they are clearly erroneous, arbitrary, capricious or contrary to law as determined by a court of competent jurisdiction. (Prior code 17.03.200; Ord. 1288 §1, 2008)

Sec. 4-6-410. Reporting of anti-competitive practices.

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the Town Attorney. (Prior code 17.03.210)

Sec. 4-6-420. Retention of procurement records.

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the law. All retained documents shall be made available to the Town Attorney upon request and proper receipt therefor. (Prior code 17.03.220)

Division 4
Methods of Disposal

Sec. 4-6-510. Reporting.

Equipment that is no longer useful to the Town and is being disposed of (excess, obsolete or surplus), with an original purchase cost of five hundred dollars ($500.00) or more, shall be reported to the Finance Department in order to update the Department's fixed asset account. (Prior code 17.04.010)

Sec. 4-6-520. Methods.

The following methods of disposition may be used for departmental surplus items.

(a) Transfer. An acceptable method of disposition is transferring to another department. Both the transferring and receiving departments' inventory records must be updated to document the disposition of such item.

(b) Sale. There are various methods of selling excess property and surplus items as outlined below:

(1) Auction: The Town may auction to sell items to the highest bidder at advertised public auctions.

(2) Sealed bids: The Finance Department may offer surplus items for purchase by sealed bid. The items shall be advertised locally, by posting at the Town offices, on the Town of Telluride Web Site or by publishing in a local newspaper.

(3) Scrap: Some items are of no use but may have a residual value. Department heads may arrange for the sale of scrap items with the money returned to the Town's General Fund.

(4) Posted prices: When there is no regular market and demand is erratic, an item may be marked with a pre-established price and sold to the public on a first-come basis.

(c) Trade-in. The Town Manager or the department head may determine that it is advantageous to the Town to seek bids on replacement items with the bidders offering trade allowance and no trade allowance pricing. Award may be made in the manner that is most advantageous to the Town.

(d) Cannibalization. Disassembling an item to use its components for repair or maintenance of a similar item is authorized only if cannibalization has more value and benefit than disposal or trade-in of the item. The Town Manager or the department head must grant approval prior to cannibalizing an item.

(e) Donation. Only the Town Council may dispose of an item by donation to a qualifying entity if the item has a value in excess of ten thousand dollars ($10,000.00). Items donated with a value of less than ten thousand dollars ($10,000.00) may be approved by the Town Manager. (Prior code 17.04.020)

Sec. 4-6-530. Hazardous materials.

There are strict federal and state laws regarding the disposal of hazardous materials. Departments generating hazardous materials shall follow posted guidelines for the proper disposal of these materials. (Prior code 17.04.030; (Ord. 1329, 2010)

Sec. 4-6-540. Sales to employees.

To avoid any appearance of impropriety in the disposition program, employees of the Town may only purchase Town-owned property when the sale is to the highest bidder at a public auction or by sealed bid. (Prior code 17.04.040)

Sec. 4-6-550. Grant-funded equipment.

Equipment purchased with state or federal grant funds shall be disposed of by following the provisions of the grant, if any. It is the responsibility of the disposing department to notify the Finance Department if grant provisions for disposal need to be followed. If there are no special provisions for disposal, the requirements of this Section shall apply. (Prior code 17.04.050)

Division 5
Legal and Contractual Remedies

Sec. 4-6-610. Authority to resolve protested solicitations and awards.

(a) Right to protest. Any actual or prospective bidder, offeror or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Town Manager. The protest shall be submitted in writing within fourteen (14) days after such aggrieved person knows or should have known of the facts giving rise thereto.

(b) Authority to resolve protests. The Town Manager shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved bidder, offeror or contractor, actual or prospective, concerning the solicitation or award of a contract.

(c) Decision. If the protest is not resolved by mutual agreement, the Town Manager shall promptly issue a decision in writing. The decision shall:

(1) State the reason for the action; and

(2) Inform the protestant of his or her right to administrative review as provided in this Article.

(d) Notice of decision. A copy of the decision under Subsection (c) above shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.

(e) Finality of decision. A decision under Subsection (c) above shall be final and conclusive, unless the protestant appeals administratively to Town Council acting as the Procurement Appeals Board. (Prior code 17.05.010)

Sec. 4-6-620. Authority to debar or suspend.

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Town Manager, after consultation with the Town Attorney, shall have the authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three (3) years. The Town Manager, after consultation with the Town Attorney, shall also have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three (3) months. (Prior code 17.05.020)

ARTICLE 7

Telephone Utilities Tax

Sec. 4-7-10. Levied.

There is levied against every telephone utility which is engaged in the business of furnishing local exchange telephone service within the Town a tax on the privilege of engaging in such business. The amount of such tax is twenty-five cents ($0.25) per month for each telephone account for which local exchange telephone service is provided within the Town. (Prior code 5.08.010)

Sec. 4-7-20. Computation; payment.

The tax levied by this Article is due monthly commencing thirty (30) days from the effective date of Ordinance No. 322, 1976. For purposes of computing the monthly payment, the number of telephone accounts for which local exchange telephone service is provided within the Town is that number of accounts on the subscriber list of the telephone utility on the effective date of said ordinance and updated every month thereafter. (Prior code 5.08.020)

Sec. 4-7-30. Inspection of records.

The Town, its officers, agents or representatives have the right, at any reasonable time, to examine the books and records of any telephone utility which is subject to the tax imposed by this Article and to make copies of the entries or contents thereof. (Prior code 5.08.030)

Sec. 4-7-40. Local purpose.

The tax provided for in this Article is upon the affected occupations and businesses in their performance of local functions and is not a tax upon those functions relating to interstate commerce. (Prior code 5.08.040)

Sec. 4-7-50. Other business taxes superseded.

The tax provided for in this Article is in lieu of all other occupation taxes, or taxes on the privilege of doing business within the Town, on any telephone utility subject to the provisions of this Article. (Prior code 5.08.050)

Sec. 4-7-60. Failure to pay.

If any telephone utility subject to this Article fails to pay the taxes as provided in this Article, the full amount thereof shall be due and collected from such company, and the tax, together with an addition of ten percent (10%) of the amount of taxes due, is a debt due and owing from such utility to the Town. (Prior code 5.08.060)

Sec. 4-7-70. Failure to file statement.

If any officer, agent or manager of a telephone utility which is subject to the provisions of this Article fails, neglects or refuses to file any statement required by this Article within the time prescribed in this Article, such officer, agent or manager, upon conviction therefor, shall be subject to a maximum penalty as set forth in Paragraph 1-4-10(a)(1); and each day after such statement becomes delinquent during which the officer, agent or manager so fails, neglects or refuses to file such statement shall be considered a separate offense. (Prior code 5.08.070)

ARTICLE 8

Unclaimed Property

Sec. 4-8-10. Purpose.

The purpose of this Chapter is to provide for the local administration and local disposition of unclaimed property which is in the possession of or under the control of the Town so that such unclaimed property becomes the property of the Town and not the State. (Prior code 3.24.010)

Sec. 4-8-20. Definitions.

Unless otherwise required by context or use, the words and terms used in this Article shall be defined as follows:

Director means the Finance Director or designee thereof.

Owner means a person, entity, including a corporation, partnership, association, governmental entity other than the Town, or a duly authorized legal representative or successor in interest of the same, which owns unclaimed property held by the Town.

Unclaimed property means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the Town and which has not been claimed by its owner for a period of more than one (1) year after it became payable, recoverable or distributable or, in the case of an abandoned motor vehicle, has not been claimed by its owner for a period of not less than thirty (30) days after notification of impoundment of such vehicle, pursuant to Section 42-4-1804(4), C.R.S. The term *unclaimed property* shall not include tangible property which has been found by an individual and placed in the custody of the Marshal's Department on the condition that, if such property is not claimed by its owner within thirty (30) days, the property shall become the property of the finder. (Prior code 3.24.020)

Sec. 4-8-30. Procedure for disposition of property.

(a) Prior to disposition of any unclaimed property having an estimated value of one hundred dollars ($100.00) or more, the Director shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the Town department or agency holding the property. The notice shall include a description of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall also state that, if the owner fails to provide the Director with a written proof of claim for the return of the property within sixty (60) days of the date of the mailing of notice, the property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.

(b) Prior to disposition of any unclaimed property having an estimated value of less than one hundred dollars ($100.00) or having no last known address of the owner, the Director shall cause a notice to be published in a newspaper of general circulation in the Town. The notice shall include a description of the property, the identity of the owner of the property if known, the amount or estimated value of the property and, when available, the purpose for which the owner may make inquiry of or claim the property. The notice shall also state that, if the owner fails to provide the Director with a written claim for the return of the property within sixty (60) days of the date of the publication of the notice, the property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.

(c) If the Director receives no written claim within the above sixty-day claim period, the property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.

(d) If the Director receives a written claim within the sixty-day claim period, the Director shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part. The Director may investigate the validity of a claim and may require further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

(e) In the event there is more than one (1) claimant for the same property, the Director may, in the Director's sole discretion, resolve said claims, or may resolve such claims by depositing the disputed property with the registry of the Municipal or District Court in an interpleader action.

(f) In the event that all claims filed are denied, the property shall become the sole property of the Town, and any claim of the owners of such property shall be deemed forfeited.

(g) Any legal action filed challenging a decision of the Director shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Director pursuant to the order of the court having jurisdiction over such claim.

(h) The Director is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this Article, including compliance requirements for other officers and employees of the Town in the identification and disposition of such property. (Prior code 3.24.030)

Sec. 4-8-40. Public sale of abandoned property.

(a) Except as provided in Subsections (b) and (c) below and not sooner than thirty (30) days after unclaimed property becomes the property of the Town, the Director may sell it to the highest bidder at public sale anywhere in the State which affords, in the judgment of the Director, the most favorable market for the property involved. The Director may decline the highest bid and reoffer the property for sale if, in the judgment of the Director, the bid is insufficient. If, in the judgment of the Director, the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this Section must be preceded by a single publication of notice, at least three (3) weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(b) Securities listed on an established stock exchange must be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the Director considers advisable.

(c) Unless the Director considers it to be in the best interest of the Town to do otherwise, all securities which become the property of the Town delivered to the Director must be held for at least one (1) year before sale.

(d) The purchaser of property at any sale conducted by the Director pursuant to this Article takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The Director shall execute all documents necessary to complete the transfer of ownership.

(e) The purchaser of property at any sale conducted by the Director pursuant to this Article takes the property free of all claims of the owner or previous holder thereof, and of all persons claiming of the owner or previous holder thereof and of all persons claiming through or under them. The Director shall execute all documents necessary to complete the transfer of ownership. (Prior code 3.24.040)

Sec. 4-8-50. Disposition of revenues.

All revenues and proceeds from any sale of unclaimed property shall be credited to the Town's General Fund. (Prior code 3.24.050)

CHAPTER 6

Business Licenses and Regulations

Article 1 Business Licenses

Sec. 6-1-10 Definitions
Sec. 6-1-20 Fee levied
Sec. 6-1-30 Use of proceeds
Sec. 6-1-40 License required
Sec. 6-1-50 License exemptions
Sec. 6-1-60 Administration by Town Clerk
Sec. 6-1-70 Legal compliance required
Sec. 6-1-80 Affidavit Required
Sec. 6-1-90 License revocation
Sec. 6-1-100 Failure to obtain
Sec. 6-1-110 Delinquency charges penalty

Article 2 Liquor Licenses

Division 1 Liquor Licensing Authority
Sec. 6-2-10 Establishment of authority
Sec. 6-2-20 Duties
Sec. 6-2-30 Issuance of new licenses
Sec. 6-2-40 Secretary
Sec. 6-2-50 Legal advisor appeals
Sec. 6-2-60 Show cause hearings

Division 2 Liquor Licensing
Sec. 6-2-110 General provisions
Sec. 6-2-120 Town Clerk authorities
Sec. 6-2-130 Renewal fines
Sec. 6-2-140 Training workshops
Sec. 6-2-150 Fines in lieu of suspension
Sec. 6-2-160 Distance requirements
Sec. 6-2-170 Tastings
Sec. 6-2-180 Special event permits
Sec. 6-2-190 Modification of liquor-licensed premises

Division 3 Hotel and Restaurant Optional Premises Liquor Licenses
Sec. 6-2-210 Standards supplement to law
Sec. 6-2-220 Eligible facilities
Sec. 6-2-230 Number of optional premises
Sec. 6-2-240 Submittal requirements
Sec. 6-2-250 Advance notification

Article 3 Admission Fees for Festivals and Events in Town

Sec. 6-3-10 Definitions
Sec. 6-3-20 Purpose of fee
Sec. 6-3-30 Admissions fee levied
Sec. 6-3-40 Exclusions
Sec. 6-3-50 Collection and remittance of fee
Sec. 6-3-60 Failure to remit; penalties for nonpayment
Sec. 6-3-70 Unlawful assumption of fee
Sec. 6-3-80 Printing of fee on ticket
Sec. 6-3-90 Determination of fee due
Sec. 6-3-100 Right of inspection and audit
Sec. 6-3-110 Collection and payment of disputed fee
Sec. 6-3-120 Use of proceeds
Sec. 6-3-130 Violations; penalty

Article 4 Vending

Sec. 6-4-10 Purpose
Sec. 6-4-20 Definitions
Sec. 6-4-30 Activities allowed without a permit
Sec. 6-4-40 Vending on public property
Sec. 6-4-50 Vending on private property
Sec. 6-4-60 Nonprofit waivers
Sec. 6-4-70 Penalties
Sec. 6-4-80 Appeals

Article 5 Medical Marijuana

Section 100 General

Sec. 6-5-101 Findings and purpose
Sec. 6-5-012 Incorporation of general licensing provisions
Sec. 6-5-103 Definitions
Sec.6-5-104 Time
Sec. 6-5-105 Certain confidential matters not public records
Sec. 6-5-106 No private duties, cause of action or remedies
Sec. 6-5-107 Construction and severability

Section II Medical Marijuana Licensing Authority

Sec. 6-5-201 Licensing authority
Sec. 6-5-202 Powers of Authority
Sec. 6-5-203 Appeal of Authority decisions

Section III Licenses

Sec. 6-5-301 Licenses and permit required
Sec. 6-5-302 Classes of medical marijuana licenses
Sec. 6-5-303 Nature of license
Sec. 6-5-304 License and other fees
Sec. 6-5-305 Term of license
Sec. 6-5-306 Coordination with State Medical Marijuana Licensing Authority and State requirements
Sec. 6-5-307 Application for medical marijuana license
Sec. 6-5-308 Requirements to obtain and retain a medical marijuana license
Sec. 6-5-309 Good cause for denial of new license, denial of license, or sanctions
Sec. 6-5-310 Review of application for new license, determination and findings
Sec. 6-5-311 Hearing on application for new license or the denial of a new medical marijuana license
Sec. 6-5-312 Conditions on licenses
Sec. 6-5-314 Registered manager
Sec. 6-5-315 Major changes to license, licensed premises, or adjacent grounds requiring approval of the Authority
Sec. 6-5-316 Reports of minor changes
Sec. 6-5-317 Renewal of license
Sec. 6-5-318 Tradenames, trademarks, logos, labels, packaging, and advertising
Sec. 6-5-319 Books and records
Sec. 6-5-320 Inspection of books and records; audits
Sec. 6-5-321 Inspection of licensed premises and adjacent grounds
Sec. 6-5-322 Requests for information

Section IV Disciplinary Actions Against Licenses

Sec. 6-5-401 General
Sec. 6-5-402 Sanctions
Sec. 6-5-403 Factors to consider in determining sanctions
Sec. 6-5-404 Summary suspension
Sec. 6-5-405 Imputing knowledge and violations to the licensee
Sec. 6-5-406 Effect of sanctions

Section V License Hearings

Sec. 6-5-501 Notice of hearings; setting of hearing

Sec. 6-5-502 Hearing procedures
Sec. 6-5-503 Discovery and subpoenas
Sec. 6-5-504 Burden of Proof
Sec. 6-5-505 Evidence
Sec. 6-5-506 Standing

Section VI Reserved

Section VII Violation and Penalties

Sec. 6-5-701 Unlawful acts –any person
Sec. 6-5-702 Unlawful acts—patients and primary caregivers
Sec. 6-5-703 Unlawful acts—licensees, principals, registered managers, and employees
Sec. 6-5-704 Penalties

Article 6 Retail Marijuana Stores and Marijuana Testing Facilities

Sec. 6-6-101 Findings and Purpose
Sec. 6-6-102 Incorporation of General Licensing Provisions
Sec. 6-6-103 Definitions
Sec. 6-6-104 Retail Marijuana Licensing Authority
Sec. 6-6-105 Marijuana Enterprises prohibited.
Sec. 6-6-106 Marijuana on or n Town Owned or Leased Property prohibited.
Sec. 6-6-107 Generally

ARTICLE 1

Business Licenses

Sec. 6-1-10. Definitions.

For purposes of this Article, the following definitions shall apply:

Accommodations unit means any separately owned condominium or condominium-hotel unit with one (1) or more sleeping rooms which is rented or leased for increments of less than thirty days (1-29 days).

Advertising includes all advertising regardless of medium i.e. internet, print, brochures, etc. All advertising of short term rental units must include a current Town of Telluride business license number, a condominium name and unit number and, when advertising a rental house, its street address.

Business means all activities engaged in with the object of gain, benefit, advantage or profit, direct or indirect. It includes, but is not limited to, deriving compensation from activities within the Town, including the sale, supply or distribution of commodities, services or related financial transactions. Advertising of a product, service, or short term rental unit in the Town is considered doing business.

Employee means any person or combination of two (2) persons working for him/herself, or another person, who is compensated for such work on an hourly, weekly, monthly or commission basis, or any combination of such means of compensation. The following shall apply:

(1) An individual who works twenty (20) hours per week or less shall be designated a part-time or half employee; thus, two (2) part-time employees shall equal one (1) employee.

(2) An individual who works more than twenty (20) hours per week shall be considered one (1) employee.

(3) An owner who works for or draws a salary from his or her business shall be designated as an employee

Lodging establishment means any hotel, motel, boardinghouse, roominghouse or lodge owned by a single entity and having an on-site lobby.

Owner Representative means a person who is on call full-time to manage a short term rental unit. The name, address, and phone number of the owner representative shall be listed on the business license application on file at Town Hall.

Person means any individual, firm, partnership, joint venture, corporation, estate or trust, or any group or combination acting as a unit, in the plural as well as the singular number.

Rental House a single family home or duplex offered for rental, rented or leased for less than thirty days (1-29 days).

Short Term Rental Unit means an accommodations unit, unit in a lodging establishment, or a rental house which is rented for increments of less than thirty days (1-29 days).

Sleeping room means any area with a bed surrounded by a minimum of one (1) wall. (Prior code 5.04.010; Ord. 1288, 2008; Ord. 1342, 2010)

Sec. 6-1-20. Fee levied.

An annual business license fee is levied on all persons doing business in the Town according to the following schedule:

(1) Lodging Establishment licenses, sixty-six dollars ($66.00) per sleeping room.

(2) Accommodations Unit licenses, one hundred sixty-five dollars ($165.00) plus twenty-two dollars ($22.00) per sleeping room.

(3) Rental House licenses, one hundred sixty-five dollars ($165.00) plus twenty-two dollars ($22.00) per sleeping room. Please note that the Town of Telluride has restrictions regarding short term rentals in residential zone districts in its Land Use Code.

(4) All others, including but not limited to, retail, restaurant, wholesale, service and professional licenses:

(a) Businesses with up to one and one-half (1½) employees, one hundred ten dollars ($110.00).

(b) Businesses with more than one and one-half (1½) employees and up to four (4) employees, three hundred three dollars ($303.00).

(c) Businesses with more than four (4) employees and up to six (6) employees, four hundred thirteen dollars ($413.00).

(d) Businesses with more than six (6) employees and up to nine (9) employees, five hundred twenty-three dollars ($523.00).

(e) Businesses with more than nine (9) employees and up to fifteen (15) employees, eight hundred fifty-three dollars ($853.00).

(f) Businesses with more than fifteen (15) employees and up to twenty-five (25) employees, one thousand three hundred seventy-five dollars ($1,375.00).

(g) Businesses with more than twenty-five (25) employees and up to forty (40) employees, one thousand seven hundred thirty-three dollars ($1,733.00).

(h) Businesses with more than forty (40) employees and up to sixty (60) employees, two thousand one hundred seventy-three dollars ($2,173.00).

(i) Businesses with more than sixty (60) employees and up to one hundred (100) employees, two thousand six hundred thirteen dollars ($2,613.00).

(j) Businesses with more than one hundred (100) employees, two thousand eight hundred seventy-five dollars ($2,875.00).

Fees shall be subject to increase by Town Council resolution.

(5) A building license is created and is imposed on all new construction within the Town, except as provided in this Section. The building license fee is determined as follows: .007 times the value of the building. *Value* is determined under the guidelines of Section 108.3 of the International Building Code, as adopted and amended by the Town. Single-family, duplex and triplex units built within the residential zone of the Town and deed-restricted, long-term housing units built within any zone are exempt from this license. (Prior code 5.04.020; Ord. 1288, 2008; Ord. 1342, 2010)

Sec. 6-1-30. Use of proceeds.

The proceeds derived from the business license fee shall be used first for reasonable costs incurred in connection with the administration of this Article: of the remaining balance, eighty percent (80%) shall be used for marketing and twenty percent (20%) shall be deposited into the Open Space Fund. (Prior code 5.04.030; Ord. 1288, 2008)

Sec. 6-1-40. License required.

(1) It is unlawful for any person to do business within the Town without first having obtained a business license.

(2) A separate license for each place of business is required and shall be in force and effect until December 31 of the year in which it is issued unless sooner revoked.

(3) Annual business license fees must be paid either on or before January 1. A business which begins operating after September 30 of any year shall only pay one-half (½) of the annual license fee. The building license fee shall be collected at the time of the issuance of a building permit.

(4) Each license shall be numbered and shall show the name, mailing address, and place of business of the licensee. It is the duty of each person conducting business in the Town to post his or her business license in a prominent place on the licensed premises and notify the Town Clerk of any changes to the current application including change of Management Company or Owner Representative. No licenses shall be transferable. The location of any licensed business may be changed, provided that ten (10) days' advance notice thereof is given to the Town Clerk. (Prior code 5.04.040; Ord. 1342, 2010)

Sec. 6-1-50. License exemptions.

(1) No license is required for any person engaged exclusively in the business of selling commodities or services which are exempt from taxation under this Code.

(2) Persons exempt from the provisions of this Article are employees of a licensee, minors, churches or established religious organizations, nonprofit organizations, charitable organizations, hospitals, governments and any persons exempt under federal or state law.

(3) The exchange for use of a short term rental unit for the use of any other structure not in Telluride is exempt from the provisions of this Article except that if any such "exchange" includes the transfer of money, consideration, or any other thing of value other than the use of the structure. Exchange stays sold through non-profits for the purpose of fundraising are exempt from the provisions of this Article.

(4) No license is required for any person responding to a Town of Telluride Request for Proposal/Qualification/Bid until a contract has been executed.

(5) No additional license is required for current license holders vending at a temporary location under the auspices of any special event, including festivals. (Prior code 5.04.050; Ord. 1288, 2008; Ord. 1342, 2010; Ord. 1387, 2013)

Sec. 6-1-60. Administration by Town Clerk.

(1) The power to administer this Article shall be vested in the Town Clerk, who is authorized to do the following:

(a) Collect license fees and issue receipts therefor.

(b) Adopt all forms for applications, exemptions and licenses, and prescribe the information to be provided on such forms.

(c) Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this Article.

(3) It is the duty of each such licensee, on or before January 1 of each year, to obtain a renewal thereof if the licensee remains in business or is liable to account for the sales, use or excise tax provided for in this Code; however, nothing contained in this Article shall be construed to empower the Town Clerk to refuse such renewal except in the case of revocation for cause of the licensee's prior license. (Prior code 5.04.060; Ord. 1288, 2008)

Sec. 6-1-70. Legal compliance required.

Each licensee shall be required to:

(1) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.

(2) Refrain from all illegal or unlawful practices or conditions which do or may affect the public health, safety, morals or welfare.

(3) Refrain from operating the licensed business or premises after expiration of his or her license and during the period his or her license is revoked or suspended. (Prior code 05.04.070)

Sec. 6-1-80. Affidavit Required

An annual affidavit is required to be filed, for each calendar year, by the Owner, Property Manager or the Owner's Representative for any Owner engaging in short term rentals

within any residential zone district within the Town. The affidavit will include such information as is determined by the Town Clerk. (Ord. 1342, 2010; Ord. 1387, 2013)

Sec. 6-1-90. License revocation.

The Town Council, after reasonable notice and a fair hearing, may revoke any license, based upon a violation of this Article. (Prior code 5.04.080)

Sec. 6-1-100. Failure to obtain.

Any person engaged in conducting business within the Town of Telluride, without having first secured a license therefor as provided in this Article, is guilty of a violation of this Article. (Prior code 5.04.090; Ord. 1342, 2010)

Sec. 6-1-110. Delinquency charges penalty.

(1) A delinquency charge for failure to comply with any provision of Section 6-1-40 above shall accrue five (5) days after a license is required in the amount of fifteen dollars ($15.00), or up to five percent (5%) per month (or fraction thereof), not to exceed a total of twenty-five percent (25%) of the amount due, whichever is greater.

(2) The Town may issue a summons and complaint sixty (60) days after the business license fee is due, charging a person with failure to comply with this Article. A violation of any part of this Article is punishable for each day of violation by a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code. A minimum fine, in the amount of one-half percent (.5%) per day of the amount of the business license fee for each day of noncompliance from the date the fee is due through the date of sentencing, is mandatory and may not be suspended by the court. Each day of violation is a separate offense.

(3) The Town may also seek an injunction to restrain a person from engaging in business within the Town who does not obtain an annual business license, or has his or her license revoked or suspended.

(4) All these remedies shall be in addition to all other remedies and penalties provided for by local ordinance or available at law. (Prior code 5.04.100)

ARTICLE 2

Liquor Licenses

Division 1
Liquor Licensing Authority

Sec. 6-2-10. Establishment of authority.

Pursuant to the authority granted by Sections 12-46-103(4) and 12-47-103(9), C.R.S., there is hereby established in the Town, as the Liquor Licensing Authority (the "Authority"), the position of Hearing Officer, which officer shall be appointed by and serve at the pleasure of the Town Council. (Prior code 5.17.010)

Sec. 6-2-20. Duties.

(1) Except as provided in Sections 6-2-30 and 6-2-120 of this Article, the Authority shall have all the powers of the local Licensing Authority as set forth in Title 12, Articles 46, 47 and 48, C.R.S.

(2) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before it and the presentation of evidence at hearings.

(3) The Authority shall have the power to require any applicant for a license to furnish any relevant information required by the Authority.

(4) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which the Authority is authorized to conduct. It shall constitute a violation of this Code for any person to fail to comply with any subpoena issued by the Authority in the proper conduct of its hearing.

(5) The Authority shall have the power to perform all other acts or duties required to carry out the purposes of the State and Town liquor and fermented malt beverage licensing laws.

(6) The Authority shall have the power to perform all other responsibilities that the Town Council may delegate to it and to delegate to the Town Clerk as many of its functions as it deems appropriate. (Prior code 5.17.020; Ord. 1288, 2008)

Sec. 6-2-30. Issuance of new licenses.

The appointment of a Hearing Officer notwithstanding, there is hereby reserved to the Town Council the authority to review and approve or deny all applications for the issuance of new liquor and beer licenses as provided for in Title 12, Articles 46 and 47, C.R.S. (Prior code 5.17.030)

Sec. 6-2-40. Secretary.

The Town Clerk shall serve as the secretary of the Authority, but shall not be entitled to vote on any matters coming before the Authority. The Town Clerk shall, as official secretary of the Authority, designate a person to provide necessary notice of hearings and shall also provide secretarial and reporting services for the Authority. The secretary shall prepare and keep minutes of the hearings of the Authority. The records of such hearings, if any, shall become part of the permanent records of the Town to be maintained by the Town Clerk. The secretary shall perform such other duties delegated to him or her by the Authority or assigned by this Code. (Prior code 5.17.040)

Sec. 6-2-50. Legal advisor appeals.

(1) The Town Attorney shall be the legal advisor to the Authority and shall represent the Authority and the Town in all proceedings before the Authority and in all courts where any decision of the Authority is appealed. The Town Attorney may employ special counsel when the Town Attorney determines that he or she cannot ethically perform the functions of prosecuting a complaint against a licensee before the Authority and simultaneously representing the Authority.

(2) All appeals from the Authority shall be directly to the Town Council. Any appeal from a decision or final action of the Authority may be taken by filing with the Town Clerk a written notice of appeal within fourteen (14) days of the date of the decision or final action appealed from. On appeal, the Town Council shall consider only

the record as compiled before the Hearing Officer. The decision of the Hearing Officer shall be affirmed unless the Town Council determines that the officer acted arbitrarily and capriciously, abused his or her discretion, exceeded his or her jurisdiction, acted without proper evidence or a sufficient factual basis, or otherwise failed to act in accordance with the law. The burden of proof shall be on the appellant to establish grounds for reversal. Appeals from the Town Council shall be directly to the District Court. (Prior code 5.17.050)

Sec. 6-2-60. Show cause hearings.

In all cases where a violation of the applicable state or local laws is found at a show cause hearing, the Authority shall consider evidence and statements in mitigation and in aggravation of the violation proper to determine the appropriate penalty. Such evidence and statements may relate to and include, but not be limited to, the following factors:

(1) Seriousness of the violation.

(2) Corrective action taken by the licensee after the violation.

(3) Prior violations at the licensed premises by the licensee or the licensee's employees and the effectiveness of prior corrective action.

(4) Prior violations at the licensed premises by a prior licensee or the prior licensee's employees, and the sanctions imposed for such violations, if the current licensee or any of the current licensee's owners, partners, shareholders, directors, officers or managers held an ownership interest of five percent (5%) or more in the entity holding such prior license.

(5) Whether the violation is part of a repeated course of conduct or is an isolated occurrence.

(6) Likelihood of recurrence.

(7) All circumstances surrounding the violation.

(8) Willfulness of the violation.

(9) Length of time the license has been held by the licensee.

(10) Previous sanctions imposed against the licensee.

(11) Other factors unique to the licensee or the licensed premises. (Prior code 5.17.060)

Division 2
Liquor Licensing

Sec. 6-2-110. General provisions.

(1) The provisions of the Colorado Liquor Code, Article 47 of Title 12, C.R.S., and the provisions of the Colorado Beer Code, Article 46 of Title 12, C.R.S., 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 applications, 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.

(2) The Town Council shall constitute the Liquor Licensing Authority ("Authority").

(3) The Town Clerk shall function as Clerk to the Authority, and the Town Attorney shall function as its legal counsel. The Town Marshal shall perform investigative functions on behalf of the Authority.

(4) Whenever in this Article reference is made to the Town Council, and the Town Council has appointed a Hearing Officer as the Liquor Licensing Authority pursuant to Division 1 of this Article to act in its stead, all references to the Town Council in this Article shall be to said Liquor Licensing Authority as if referenced therein in the first instance, except as otherwise specifically provided. (Prior code 5.15.010; Ord. 1288, 2008)

Sec. 6-2-120. Town Clerk authorities.

(1) The Town Clerk is hereby authorized to process and approve liquor license renewal applications on behalf of the Authority, unless grounds may exist that would constitute good cause, under applicable law, to refuse to renew a license, in which case the renewal application shall be brought to the Authority for public hearing. The Town Clerk is also authorized to process and approve, on behalf of the Authority, change of trade name applications and entity structural change applications wherein new members are not added.

(2) The Town Clerk is further authorized to issue temporary permits when the Authority is unavailable within the deadlines and provisions of Section 12-47-303, C.R.S. Temporary permits shall only be issued upon satisfactory background investigation and shall be ratified by the Authority. The Town Clerk shall notify the Authority of actions on its behalf in a timely manner. (Prior code 5.15.020; Ord. 1288, 2008)

Sec. 6-2-130. Renewal fines.

Applications for renewal of an existing license must be received by the Town Clerk not less than forty-five (45) days prior to the date of expiration. The fine for late application shall be imposed in the amount of ten dollars ($10.00) per day until the expiration date. If the applicant does not agree to pay the fine, the deadline for filing shall not be waived. In such case, the Town Clerk shall not accept or process the renewal application and shall require an application for issuance of a new liquor license. Upon payment of the fine for late application and submittal of a complete application, the expiration date of the existing license shall be extended until the application is granted or denied. If all application forms and documentation, including state and local license fees and fines, are not received by 5:00 p.m. on the date of expiration, the license will be deemed expired except where the requirements of Section 12-47-302, C.R.S., are met. (Prior code 5.15.030; Ord. 1288, 2008)

Sec. 6-2-140. Training workshops.

(1) When an application for renewal or issuance of a new liquor license is processed or approved, the applicant shall be advised that, as a condition of the applicant's liquor license, the applicant must attend a liquor service workshop, which shall include training in the lawful dispensing of alcohol. All liquor license holders working in the business, including LLC managing members, officers, shareholders owning more than ten percent (10%) of the stock of the entity and premise managers are required to attend the liquor service workshops at their own expense within one (1) year after issuance or renewal of the license, provided that no person shall be required to attend more than one (1) such workshop within a three-year period. Attendees shall submit written evidence of satisfactory participation to the Town Clerk. Failure to attend or to submit such evidence shall constitute violation of a condition of each license issued, unless the Town Clerk or the Authority finds that the workshop was not reasonably available for attendance or extenuating circumstances exist, as determined by the Town Clerk.

(2) The manager of each event for which a special event permit is issued shall be required to have attended a liquor service workshop prior to the event. When special events are held in multiple locations, a liquor-trained person must be on site at each location. If the Authority approves a special event permit and the Town Clerk determines there is not a workshop available prior to the event or extenuating circumstances exist, the manager or site managers of that event must attend the next available workshop. If the manager fails to attend a workshop which has occurred between two (2) special events that he or she will manage, the Authority may deny the second request for issuance of a special event permit based upon the proposed manager's failure to attend the required workshop and lack of qualification to safely dispense alcohol. (Prior code 5.15.040; Ord. 1288, 2008)

Sec. 6-2-150. Fines in lieu of suspension.

The optional provisions of Subsections 12-47-601 C.R.S., pertaining to payment of fines in lieu of

suspension of a retail license, are hereby adopted. (Prior code 5.15.050)

Sec. 6-2-160. Distance requirements.

(1) Pursuant to Section 12-47-313(1)(d)(III), C.R.S., the distance requirements of Section 12-47-313(1)(d)(I), C.R.S., are hereby eliminated.

(2) No new liquor license shall issue by any authority other than the Town Council and only after receiving the opinion of the affected school authority and with the following findings and conditions:

(a) A finding that the issuance of the license will have no adverse effect on the operation of the school and the student body.

(b) A finding that the applicant has the ability to diligently enforce the liquor laws as they pertain to the license applied for.

(c) Sufficient traffic signs exist alerting drivers to the presence of children and/or pedestrians. If insufficient signs exist, the license applicant may be required to assume the costs of additional traffic signs.

(d) A condition that any renewals of the application granted be reviewed as to its effect on the neighborhood particularly as to impact on the school. (Prior code 5.15.060; Ord. 1288, 2008; Ord. 1318, 2009)

Sec. 6-2-170. Tastings.

Tastings of alcoholic beverages by licensed retail liquor stores and liquor-licensed drugstores are authorized by Town Ordinance 1220, Series of 2004 and Section 12-47-301, C.R.S. Tastings held, pursuant to Section 12-47-301(10), C.R.S., shall be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue and who is either a retail liquor store licensee/liquor-licensed drugstore licensee, or an employee of a licensee, and only on a licensee's licensed premises. Additional rules and regulations for tastings are set forth in Chapter 47 of Title 12, C.R.S. (Prior code 5.15.070; Ord. 1288, 2008)

Sec. 6-2-180. Special event permits.

The Authority may mandate reasonable conditions as a condition of the special event permits, including but not limited to experience of the managers, adequate security at each premises and adequate signage and demarcation of premises boundaries. (Prior code 5.15.080; Ord. 1288, 2008)

Sec. 6-2-190. Modification of liquor-licensed premises.

A sign, provided by the Town, must be posted on the premises for ten (10) days prior to hearing and action by the Authority for modification of premises applications consisting of substantive changes to the premises, including but not limited to use of public rights-of-way, use of outdoor spaces and any use of loudspeakers or amplified music on an outdoor premises. (Prior code 5.15.090; Ord. 1288, 2008)

Division 3
Hotel and Restaurant
Optional Premises Liquor Licenses

Sec. 6-2-210. Standards supplement to law.

These standards shall be considered in addition to all other laws or regulations applicable to the issuance of licenses under the Colorado Liquor Code for optional premises licenses or for optional premises for a hotel and restaurant license. These two (2) types of optional premises will collectively be referred to as *optional premises* in these standards, unless otherwise specified. (Prior code 5.16.010)

Sec. 6-2-220. Eligible facilities.

(1) An optional premises license must be located on an applicant's outdoor sports and recreational facility. An optional premises license for a hotel and restaurant must be on or adjacent to the hotel and restaurant and must provide outdoor sports and recreational facilities as defined in Section 12-47-103(13.5)(b), C.R.S. The types of

outdoor sports and recreational facilities which may be considered in relation to an optional premises license are the following:

(a) Country clubs.

(b) Golf courses.

(c) Ski areas.

(2) There is no restriction on the minimum size of the outdoor sports and recreational facility which may be eligible for an optional premises license. However, the Town Council may consider the size of the particular outdoor sports and recreational facility in relationship to the number of optional premises licenses requested for the facility, and may reject any optional premises application if the Town Council considers the related facility to be too small to require an optional premises license. (Prior code 5.16.020)

Sec. 6-2-230. Number of optional premises.

There are no restrictions on the number of optional premises which any one (1) licensee may have. However, any licensee requesting approval of more than one (1) optional premises shall:

(1) Explain the reason for each optional premises requested;

(2) Demonstrate how the optional premises relate to each other from an operational standpoint; and

(3) Demonstrate the need for each optional premises in relationship to the outdoor sport and recreational facility and its guests. (Prior code 5.16.030)

Sec. 6-2-240. Submittal requirements.

When submitting a request for the approval of an optional premises license, an applicant shall also submit the following information:

(1) An applicant for an optional premises license shall submit a complete application similar in content to an application for a tavern license, in addition to paying all required fees.

(2) An applicant for optional premises for a new hotel and restaurant license shall identify the optional premises locations as part of the hotel and restaurant license application; provided, however, that an applicant for an optional premises for an existing hotel and restaurant license need only submit an application which conforms with the requirements of this standard.

(3) All applicants must submit a map or other drawing illustrating the outdoor sports and recreational facility boundaries and the approximate location of each optional premises presently located on or adjacent to the outdoor sports and recreational facility.

(4) All applicants shall submit a legal description of the approximate area within which the optional premises are to be located. This description need not identify the exact location of the optional premises; however, the description must be specific enough to permit reasonable identification of the area within which the optional premises are to be located.

(5) All applicants shall submit a description of the methods which will be used to identify and control the optional premises when they are in use. For example, the applicants may describe the type of signs, fencing or other notices or barriers to be used in order to control the optional premises.

(6) An applicant for an optional premises license shall demonstrate that provisions have been made for storing malt, vinous and spirituous liquors in a secure area on or off the optional premises for future use of the optional premises. (Prior code 5.16.040)

Sec. 6-2-250. Advance notification.

Pursuant to Subsections 12-47-135(6) and (7), C.R.S., no alcoholic beverages may be served on the optional premises without the licensee having provided written notice to the State and local licensing authorities forty-eight (48) hours prior to serving alcoholic beverages on the optional premises. The notice must contain the specific days and hours during which the optional premises are to be used. In this regard, there is no

limitation on the number of days which a license may specify in each notice. However, no notice may specify any date of use which is more than one hundred eighty (180) days from the notice date. (Prior code 5.16.050)

ARTICLE 3

Admission Fees for Festivals and Events in Town

Sec. 6-3-10. Definitions.

The following words and phrases, when used in this Article, shall have the meanings respectively ascribed to them:

Admission means the right of a person to enter and/or occupy a seat or area at any festival or event staged, produced, convened or held in Town facilities, Town property and/or public rights-of-way for which an admission is charged, whether entrance is granted by purchase, sale or complimentary entrance.

Event organizer means any person, promoter or sponsor obligated to account to the Finance Director for fees collected or to be collected, or from whom a fee is due, under the terms of this Article.

Fee means either the fee payable by the purchaser or the aggregate amount of fees due from a vendor or event organizer.

Major festival event shall have the meaning set forth in Chapter 11, Article 4 of this Code.

Person means a natural person who is at least five (5) years old.

Purchase or *sale* means a contract for sale and includes any transaction for the furnishing by any person to any person of the privilege of admission.

Purchaser means any person to whom the privilege of admission is or has been rendered.

Vendor means a person making a sale to a purchaser of the privilege of admission. (Prior code 5.18.010; Ord. 1288, 2008)

Sec. 6-3-20. Purpose of fee.

The Town Council declares that, for purposes of this Article, every person who purchases or accepts an admission to a festival or event is exercising a privilege of admission, and every vendor who sells an admission or provides a complimentary or free admission, unless excluded in Section 6-3-40 below, shall collect the fee imposed by this Article in the manner set forth herein. The proceeds of the fee shall be used to defray law enforcement and other service-related expenses associated with festivals or events incurred by the Town or by the County pursuant to any intergovernmental agreement, and for such other Town Park administration, operations and improvements as the Town Council may designate. (Prior code 5.18.020)

Sec. 6-3-30. Admissions fee levied.

(a) There is imposed and levied upon every person who pays or contributes an admission charge or receives a complimentary or free admission to any festival or event in Town facilities, on Town property and/or on public rights-of-way that charges admission, an admissions fee according to the following schedule:

(1) Festivals or events under one thousand (1,000) attendees: sixty-five cents ($.65) per day per ticket;

(2) Festivals or events with one thousand (1,000) to two thousand nine hundred ninety-nine (2,999) attendees: one dollar and twenty-five cents ($1.25) per day per ticket;

(3) Festivals or events with three thousand (3,000) and over attendees: three dollars and fifteen cents ($3.15) per day per ticket.

(b) The above fee schedule shall be modified every five years by subsequent Town Council action by Resolution as part of the annual budget process to reflect the inflationary adjustment for the previous five (5) year period. (Ord. 1414, 2014; Prior code 5.18.030)

Sec. 6-3-40. Exclusions.

There shall be excluded from the provisions of this Article the following:

(1) All sales to or by the United States government or the State, its departments or institutions, and the political subdivisions thereof, in their governmental capacity only; and all sales to or by the Town or any department thereof;

(2) All sales to religious, charitable and eleemosynary corporations, in the conduct of their regular religious, charitable and eleemosynary functions and activities; and

(3) Complimentary admissions up to a maximum of fifteen percent (15%) of total allowable attendees with the approval of the Town Manager; provided that such tickets are given to persons pursuant to the provisions of Chapter 11, Article 4 of this Code, when applicable. (Prior code 5.18.040)

Sec. 6-3-50. Collection and remittance of fee.

(1) Every person receiving a charge for admission upon which a fee is levied under this Article shall collect the fee. Said fee shall be deemed to be held in trust by the person required to collect the same until remitted to the Finance Director as hereinafter provided. The fee imposed under this Article shall be collected at the time an admission charge is paid.

(2) Every vendor collecting any fee imposed by this Article shall, within thirty (30) days following the last day of the event for which an admission charge is required, file with the Finance Director a statement upon forms provided by the Finance Director, indicating the amount of fees collected by such person during the admissions sale period, and such further information as the Finance Director may deem necessary to determine the amount of the fees collected and payable. A remittance for the entire amount of the fee collected shall accompany the statement. (Prior code 5.18.050)

Sec. 6-3-60. Failure to remit; penalties for nonpayment.

Every vendor required to collect an admissions fee by this Article who fails to collect the same or fails to remit the fee shall be personally liable to the Town for the amount of the fee. Any person required to collect or remit the fee imposed by this Article who fails to remit the amount of the fee when due shall, in addition to all other penalties, pay a penalty of fifteen percent (15%) of the amount due. For each successive thirty (30) days elapsing before payment, there shall be added an additional penalty of five percent (5%) on the original unpaid amount of the fee due. (Prior code 5.18.060)

Sec. 6-3-70. Unlawful assumption of fee.

It is unlawful for any person to advertise or state to the public or to any person, directly or indirectly, that the fee or any part thereof imposed by this Article will be assumed or absorbed by the vendor, that it will not be added to the selling price of the admission sold or, if added, that it or any part thereof will be refunded. (Prior code 5.18.070)

Sec. 6-3-80. Printing of fee on ticket.

On each admission ticket, wristband or card sold, the following words or their equivalent identifying the amount of fee levied shall be conspicuously and indelibly printed, written or stamped on the face or back of that part of the ticket which is sold, taken up or inspected by the management or sponsor of the major festival event:

Town of Telluride Admissions Fee –
[insert applicable amount] per day.

(Prior code 5.18.080)

Sec. 6-3-90. Determination of fee due.

If any person required to collect and remit the fee imposed by this Article fails to file a statement and a remittance, or if the Town Manager has reasonable cause to believe that an erroneous statement has been filed, the Town Manager may proceed to determine the amount due to the Town and, in connection therewith, shall make such investigations and take such testimony and other evidence as may be necessary; provided, however, that notice and opportunity to be heard shall be given any person who may become liable for the amount owing prior to any final determination by

the Town Manager. (Prior code 5.18.090; Ord. 1288, 2008)

Sec. 6-3-100. Right of inspection and audit.

It shall be the duty of every vendor to keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be necessary to determine the amount of the fee for the collection or payment of which the vendor is liable under this Article. The Town Manager may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts and other records so kept or maintained by such vendor. (Prior code 5.18.100)

Sec. 6-3-110. Collection and payment of disputed fee.

Should a dispute arise between the purchaser and vendor or between the vendor and the Town Manager as to whether or not the sale of admission is exempt under this Article, the vendor or Town Manager shall collect and the purchaser or vendor shall pay such fee, and the vendor or Town Manager shall thereupon issue a receipt or certificate, showing the names of the purchaser and vendor, the date, price and amount of fee paid, and a brief statement of the claim of exemption. The purchaser or vendor thereafter may apply to the Town Manager for a refund of such fees, and it shall be the duty of the Town Manager to thereupon determine the question of exemption and to provide for a refund if necessary. (Prior code 5.18.110)

Sec. 6-3-120. Use of proceeds.

The proceeds of all admissions fees collected by the Town shall be deposited into the General Fund. Town Council shall allocate the annual revenue to the designated purposes above in Sec. 6-3-20 through annual appropriations, with priority toward recoupment of law enforcement costs and capital improvements related to the festival facilities. (Ord. 1414, 2014; Prior code 5.18.120)

Sec. 6-3-130. Violations; penalty.

Violation by any person of any of the provisions of this Article shall constitute a misdemeanor and is punishable by a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code. Each day of violation is a separate offense. (Prior code 5.18.130)

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ARTICLE 4

Vending

Sec. 6-4-10. Purpose.

(1) All public rights-of-way within the Town's corporate limits are the property of the Town. They are administered for and utilized primarily for the benefit of the traveling public and franchised municipal utilities, and secondarily for commercial activities along the rights-of-way. The purpose of this Article is to regulate the location, time, manner and amount of vending activities on public and private property in such a manner as to protect the rights of the public, public property and the rights of private property owners to peace and tranquility in their residences.

(2) The intent of this Article is to allow limited commercial activity from small, nonpermanent, display apparatus which are compatible with the existing neighborhood. (Prior code 5.12.010; Ord. 1252 §1, 2006)

Sec. 6-4-20. Definitions.

As used in this Article, the following terms have the following meanings:

Display apparatus means a nonpermanent structure, table, wagon, tray or cart for the display and vending of goods, merchandise, food, wares or services.

Extraordinary circumstances means occasions that are not usual, expected, regular or of a customary nature.

Long-term vending means vending on private property for a term longer than that defined as *short-term vending*.

Major festival event shall be defined as in Section 11-4-10 of this Code.

Nonprofit organizations means those groups which have been granted a Section 501(C)3 or 503 tax exempt status by the Internal Revenue Service.

Public property means all real property owned, leased or managed by the Town, including but not limited to public rights-of-way, streets, sidewalks, parks and parking areas.

Sale or *sell* means the exchange of goods or services for money or other consideration, including the offering of goods or services for donation except when offered to express religious, social or political belief.

Short-term vending means vending on private property which occurs no earlier than the Thursday preceding a major festival event and ends the Monday following a major festival event.

Summer Season is defined as May 15 through October 14 annually.

Vending activity means the act of selling or offering for sale wares, goods, merchandise, food or services with or without a display apparatus, from a location outside of a building, and which activity is not an accessory use as defined by the Land Use Code.

Vending Committee, Staff means the Town Clerk and the Planning Director.

Vending Subcommittee, Council means two (2) Town Councilpersons, assigned by the Town Council, (1) member of the Planning and Zoning Commission, and the Town Clerk as liaison

Winter Season is defined as October 15 through May 14 annually.

Yard sale means the sale of personal goods occurring on public or private property.
(Prior code 5.12.020; Ord. 1252 §1, 2006; Ord. 1288, 2008; Ord. 1308, 2009; Ord. 1386, 2013; Ord. 1416, 2015 Ord. 1447, 2017)

Sec. 6-4-30. Activities allowed without a permit.

The following activities are allowed without a permit, provided that the activity or use does not constitute a hazard to public health, safety, wel-

fare and/or property or violate any other law of the Town. Nothing herein shall prohibit occasional ticket sales or fundraising without the use of a display apparatus by a nonprofit organization or any activity allowed under Chapter 11, Article 4 of this Code:

(1) Entertainment for which no fee is charged and which is not subject to regulation under Chapter 11, Article 4 of this Code.

(2) Free distribution of information, flyers, pamphlets, brochures or petitions.

(3) Display of advertising on a carried sandwich board.

(4) Individual or group yard sales of personal goods at any one (1) location not exceeding three (3) consecutive days in duration and totaling not more than eight (8) days per year.

(5) Sales by children under the age of fourteen (14) years of age with items for sale at a cost of a maximum of five dollars ($5.00) an item.

(6) Use of the permanent table next to the kiosk on the corner of Colorado and Pine by nonprofit organizations.

(7) Activities or special events on public property formally authorized by the Town. (Prior code 5.12.030; Ord. 1252, 2006; Ord. 1386, 2013)

Sec. 6-4-40. Vending on public property.

(1) Rules.

(a) Permit required. It shall be unlawful for any person to engage in vending activity on public property without a permit or without compliance with the provisions of this Article.

(b) Application required. An application for a vending permit, including a scaled drawing of the proposed display apparatus and proposed signage, shall be submitted to the Town Clerk by published deadlines. Deadlines will not be less than two (2) months preceding the next season. The application shall be in a form prescribed by the Town Clerk and shall be for a specific vending site. The Town Clerk shall forward applications to the Vending Subcommittee in a timely manner, after determining that the application, including fees and evidence of insurance, is complete. The Vending Subcommittee shall approve one application for each available site prior to the commencement of vending activity.

Late Applications. Late applications may be considered at the discretion of the Vending Subcommittee by written request from the Applicant including an explanation for the late filing, and with a $40.00 late application fee.

(c) Indemnification and liability insurance required. As a permit condition, persons engaging in vending activity shall agree to indemnify and hold harmless the Town, its officers, employees and agents against any and all claims for damage to persons or property arising out of or resulting from the permittee's actions or omissions in the permitted use. Vendors shall also maintain comprehensive general public liability and property damage insurance in amounts no less than one million dollars ($1,000,000.00) per person and two million dollars ($2,000,000.00) per incident. Insurance policies shall name the Town, its officers, employees and agents as additional insureds and shall provide that the insurance is primary and that no other insurance maintained by the Town will be called upon to contribute to a loss covered by the policy. The policy shall further provide written notice to the Town prior to cancellation or material change. Evidence of such insurance is required prior to permit issuance.

(d) Additional Requirements.

i. Applicants shall obtain all required agreements, permits, licenses and approvals from all applicable governmental entities before a vending permit is issued, including but not limited to: (a) a Vending Agreement with the Town for use of public rights-of-way and other public property; (b) a Colorado sales tax license; (c) a Town business license; (d) a Town sales tax

license; (e) a Town excise tax license; (f) a "Mobile Retail Food Establishment License" issued by the State of Colorado, if applicable; and (g) inspection and approval of the display apparatus and site setup from the Town Clerk. Vendors must be current with the Colorado and Town sales taxes and Town excise tax prior to the issuance of a permit. Thereafter, timely payment of taxes is required to maintain a permit.

ii. The vendor shall prominently display all required permits and licenses on the vending apparatus or, if no such apparatus is used, shall make such permits available upon reasonable request by any member of the public or official of the Town.

(e) Nontransferable. The vending permit is not transferable or assignable.

(f) Noninterference. No person engaged in vending activity shall make any unnecessary sounds or noise, obstruct any sidewalk or other public property, disturb or impede other persons or otherwise author any public nuisance. The use of radios, stereos and tape decks in connection with any vending activity is prohibited.

(g) Display apparatus.

i. Display apparatus, if used, must be no larger than three (3) feet in width, five (5) feet in length and seven (7) feet in height, excluding umbrellas and other similar devices. Slight variations may be approved at the discretion of the Vending Subcommittee. The use of tents is prohibited. All accoutrements must be contained in a 5' x 8' area. Accoutrements must be necessary to the business, must be orderly, and must not be potential safety hazards.

ii. All display apparatus shall be removed from public property at the end of each working day except in extraordinary circumstances and with prior written notification to the Town. Dogs may not be hitched to the display apparatus.

iii. Signage shall be painted on or attached to the display apparatus, and a drawing to scale of the proposed signage shall be included in the application. Signs on display apparatus shall not exceed coverage of fifty percent (50%) of the front of the apparatus and fifty percent (50%) of each side of the apparatus and shall not appear on umbrellas or other similar devices that extend above the display apparatus.

iv. The use of gas powered generators is prohibited. Noiseless alternative energy generators will be considered.

(h) Area maintenance.

i. A vendor shall maintain both the permitted area, the immediate area surrounding the permitted area and the display apparatus in a neat, clean and hazard-free condition. Applicants must provide a written plan for disposal of trash generated by the business or pay, in advance, a Town trash fee of forty dollars ($40.00) per month for pick-up of trash from nearby public containers.

ii. Spruce Street vendors are reminded that the mall is multi-use and must be available for general public use. Public picnic tables and public benches may not be used as display apparatus.

The North Spruce Street Mall area is available for vending activities providing that the maximum footprint for vending is limited to no more than 250 square feet including all tables, boxes, displays, etc. The vending area is to be set back at least fifteen feet (15') from the Colorado Avenue sidewalk, five feet (5') from the sidewalk east of the park, and shall not extend beyond the tree line to the west. Applications must include a scaled diagram of how the space is to be used and vendors must set up pursuant to the submitted and approved diagram. Spruce Street vendors are allowed one 8' x 8' "EZ UP" type awning to protect produce from the sun.

(i) Fees. The required application fee shall be submitted with the application. All permit fees shall be paid before commencement of the vending activity.

(j) Choice of vendors. Sites will be approved and assigned at the discretion of the Vending Subcommittee. The Vending Subcommittee will consider, but not be limited to, the below criteria in determining which applicants shall be issued permits. Criteria are not weighted or prioritized and include, but are not limited to:

i. Diversity (in Town and by vendors) of offered food, goods, wares, merchandise or services;

ii. Town of Telluride vending history specific to the legal entity applying for the permit;

iii. Appearance, quality, safety and attractiveness of the display apparatus and related accoutrements; and

iv. Compliance and performance reviews conducted by the Vending Subcommittee during seasonal debriefs.

(k) Abandon/surrender.

i. During Summer Season (May 15 through October 14), a vendor who does not participate in a vending activity for four (4) out of seven (7) days (Sunday to Saturday), weather permitting, from the Friday prior to Memorial Day through the Sunday of the last Minor Festival as defined in Chapter 11, Article 4 of this code, will be considered to have surrendered and abandoned his or her permit, except that vendors are allowed fourteen (14) vacation days to be taken at the vendor's discretion. Vendors should adhere to intended hours of operation indicated in the application.

Prior written notification to and approval by the Town Clerk of allowed vacation days and extraordinary circumstances is required if the minimum vending days cannot be met.

ii. During Winter Season (October 15 through May 14) a vendor who does not participate in vending activity for two (2) out of seven (7) days (Sunday to Saturday), weather permitting, from December 20 through the official closure of the ski area will be considered to have surrendered and abandoned his or her permit, except that vendors are allowed five (5) vacation days to be taken at the vendor's discretion. Vendors should adhere to intended hours of operation indicated in the application.

Prior written notification and approval by the Town Clerk of allowed vacation days and extraordinary circumstances is required if the minimum vending days cannot be met.

iii. From October 15 through December 19 and from the day following official closure of the ski area through May 14, permittees are not required to vend.

iv. A vendor, after receiving a permit, may begin to vend earlier than the season start time if a site is vacant.

v. When a space has been abandoned, the Town shall have the right to reassign vacated spaces to another applicant.

(l) Modifications. The Town Clerk may approve insubstantial modifications to this Section as long as the intent of this Article is met. The Town Clerk may adopt additional rules and regulations for administering all permits, and all applicants shall comply with said requirements. Vendors will be notified in writing of changes to rules and regulations prior to implementation.

(2) Vending areas, allowed uses, application fees and permit fees. The Town occasionally authorizes activities or special events that may impact specific sites. Vendors will be notified prior to events and alternative sites will be offered by the Town to vendors during these events/activities.

(a) Oak Street Mall area (North Oak Street/Elks Park):

i. Permits allowed: four (4).

ii. Application fee: forty dollars ($40.00), nonrefundable.

iii. Allowed use: sale of wares, goods, merchandise or food from a display apparatus.

iv. Location: assigned sites (four [4]) on Colorado Avenue at Oak Street.

v. Permit fees:

1. Summer season, May 15 through October 14: five hundred dollars ($500.00).

2. Winter season, October 15 through May 14: two hundred fifty dollars ($250.00).

(b) Oak Street/San Juan/Gondola area:

i. Permits allowed: two (2).

ii. Application fee: forty dollars ($40.00), nonrefundable.

iii. Allowed use: sale of wares, goods, services, merchandise or food from a display apparatus.

iv. Location: assigned site on Town property.

v. Permit fees:

1. Summer season, May 15 through October 14: five hundred dollars ($500.00).

2. Winter season, October 15 through May 14: two hundred fifty ($250.00)

(c) Spruce Street Mall area:

i. Permits allowed: Three (3). There shall be no simultaneous vending by vendors. Each vendor is limited to operating one (1) day per week as assigned at the discretion of the Vending Subcommittee.

ii. Application fee: forty dollars ($40.00), nonrefundable.

iii. Allowed use: sale of fruits, vegetables, nonalcoholic beverages and flowers.

iv. Location: North Spruce Street Mall.

v. Permit fees: June 15 through October 31, two hundred dollars ($200.00).

(d) Town park areas: No vending activity shall occur in Town park areas except during a major or minor festival event as defined by Chapter 11, Article 4 of this Code in accordance with any such festival event permit, during a special event on the CCAASE calendar, or except as may be permitted by the Recreation Director.

(e) Payment rates for all areas may be changed by resolution of the Town Council. (Prior code 5.12.040; Ord. 1252 §1, 2006; Ord. 1288, 2008; Ord. 1308, 2009; Ord. 1386, 2013; Ord. 1401, 2013; Ord. 1416, 2014; Ord. 1438, 2016; Ord. 1447, 2017)

Sec. 6-4-50. Vending on private property.

(1) Permit and owner authorization required. It is unlawful for any person to engage in vending activity on private property without a permit and the written permission of the legal owner of the property.

(2) Permit review and approval.

(a) An application for a vending permit, including a scaled drawing of the proposed display apparatus and proposed signage, shall be submitted to the Town Clerk for approval or disapproval prior to commencing vending activity. The application shall be in a form prescribed by the Town Clerk.

(b) The Town Clerk may approve the application only after determining that:

i. The application, including fees and insurance evidence, is complete;

ii. The written permission of the legal owner of the proposed vending site has been obtained;

iii. The proposed vending activity is consistent with the purposes and requirements of this Article;

iv. The vending activity is consistent with the permitted uses in the zone district regulations of the Town;

v. The applicant has the ability to comply with the requirements of this Article and any necessary permit conditions;

vi. Applicable rules and regulations for permit administration have been met; and

vii. The Vending Subcommittee has approved the display apparatus.

(3) The Town Clerk may adopt additional rules and regulations for accepting, reviewing and administering all permits, and all applicants shall comply with said requirements.

(4) Indemnification and liability insurance required. As a permit condition, persons engaging in vending activity shall agree to indemnify and hold harmless the Town, its officers, employees and agents against any and all claims for damage to persons or property arising out of or resulting from the permittee's actions or omissions in the permitted use. Vendors shall maintain comprehensive general public liability and property damage insurance. General vendors shall provide coverage limits not less one million dollars ($1,000,000.00) per person and two million dollars ($2,000,000.00) per incident. Insurance policies shall name the Town, its officers, employees and agents as insureds; and shall provide that the insurance is primary and that no other insurance maintained by the Town will be called upon to contribute to a loss covered by the policy. The policy shall further provide written notice to the Town prior to cancellation or material change. Evidence of such insurance is required prior to permit issuance.

(5) Additional Requirements.

(a) All applicants shall obtain required building or other permits or licenses from all applicable governmental entities before a permit is issued, including but not limited to a Colorado sales tax license, a Town business license, Town sales tax license, Town excise tax license and, if applicable, a State of Colorado issued Mobile Retail Food Establishment License. Vendors must be current with Colorado and Town sales taxes and Town excise taxes prior to the issuance of a permit. Thereafter, timely payment is required to maintain a permit.

(b) The vendor shall prominently display all required permits and licenses on the vending apparatus or, if no such apparatus is used, shall make such permits available upon reasonable request by any official of the Town.

(6) Nontransferable. The vending permit is not transferable or assignable.

(7) Noninterference. No person engaged in vending activity shall make any unnecessary sounds or noises, obstruct any sidewalk or other public property, disturb or impede other persons or otherwise author any public nuisance.

(8) Signage. Signage shall be painted on or attached to the display apparatus, and a drawing to scale of the proposed signage must be included in the application. Signs shall not exceed a total of eight (8) square feet. Signs shall not be lit.

(9) Rest rooms accessible. Those vending activities that include food service and provisions for seating of patrons shall provide accessible rest rooms within the immediate area that meet the specifications of the San Miguel County Environmental Health Department.

(10) Area maintenance. A vendor shall maintain both the permitted area, the immediate area surrounding the permitted area and the display apparatus in a neat, clean and hazard-free condi-

tion. Applicants must show proof of their ability to provide for disposal of trash generated by their business or, at the discretion of the Town Clerk, pay a Town trash fee of forty dollars ($40.00) per month for pick-up of trash from nearby public containers.

(11) Review. Permits issued for vending on private property will be reviewed at the end of each season for compliance with permit requirements.

(12) Fees. There is a forty dollar ($40.00) application fee.

(13) The Town Clerk may approve insubstantial modifications to this Section if the intent of the Article is met.

(14) The use of gas powered generators is prohibited. Noiseless alternative energy generators will be considered.

(15) Long-term and short-term vending. Vendors on private property shall be either short-term or long-term vendors as defined in Section 6-4-20 above. All vendors shall comply with applicable rules and regulations.

(16) Long-term vending. Long-term vending permit holders on private property are subject to the provisions set forth in 6-4-50(1) through 6-4-50(15) of this Article.

(a) Display apparatus. Display apparatus on private property must be no larger than seven (7) feet in width, sixteen (16) feet in length and nine (9) feet in height.

(b) Staff Vending Committee. The Town Clerk and the Planning Director, shall review proposed display apparatus and its site for appropriateness with respect to the character of the neighborhood. Display apparatus shall be reviewed for appropriateness based on the following criteria:

i. Compatibility with the character of the surrounding area.

ii. Orientation and siting with respect to impact on adjacent properties and public ways.

iii. Landscaping, including but not limited to surface materials, plants, benches, tables and trash receptacles.

iv. Compatibility of apparatus materials, finishes and colors with surrounding area.

v. Design, size and placement of signage.

vi. Appropriateness of lighting.

vii. Size and placement of flags, awnings and banners.

(c) Public notice. The applicant shall post the property with signage provided by the Town Clerk, at least ten (10) days prior to any permit being issued. A public hearing must be held if remonstrances are received during the 10 day posting period.

(d) Location. Long-term vending on private property is allowed on Colorado Avenue between Willow and Aspen Streets

(17) Short-term vending. Short-term vending permit holders on private property are subject to the provisions set forth in 6-4-50(1) through 6-4-50(15) of this Article.

(a) Display apparatus. Display apparatus on private property must be no larger than seven (7) feet in width, sixteen (16) feet in length and nine (9) feet in height. The maximum size includes flags, awnings, banners and signage.

(b) Tents. Use of a tent as a display apparatus is permitted for short-term vending use. Tents shall be no larger than ten (10) feet in width, ten (10) feet in length and fifteen (15) feet in height. No vendor, agent, affiliate, parent or subsidiary thereof shall erect more than one (1) tent per event or one (1) tent per lot or contiguous lots.

(c) Location. Short-term vending is allowed in areas where commercial uses are allowed by zoning. (Prior code 5.12.050; Ord. 1252 §1, 2006; Ord. 1288, 2008; Ord. 1416, 2014; Ord. 1447, 2017)

Sec. 6-4-60. Nonprofit waivers.

Any person or organization with proof of non-profit status may apply to the Town Clerk for approval of a waiver of vending permit fees or specific sections of this Article if doing so does not violate the intent of this Code. (Prior code 5.12.060; Ord. 1252 §1, 2006)

Sec. 6-4-70. Penalties.

(1) Violation of any of the provisions of this Article shall be a misdemeanor, punishable as set forth in Paragraph 1-4-10(a)(1) of this Code.

(2) Violations or noncompliance with any permit condition or provision of this Article may also result in up to a one thousand dollar ($1,000.00) fine per day of violation and/or immediate suspension or revocation of any vending permit by the Town Clerk, subject to the right of hearing within three (3) business days after any such suspension upon request of the permit holder. (Ord. 1416, 2014; Prior code 5.12.070; Ord. 1252 §1, 2006)

Sec. 6-4-80. Appeals.

All appeals of this Article shall be directed to the Town Council. Any appeal of a decision or final action by the Town Clerk may be made by filing with the Town Clerk a written notice of appeal within fourteen (14) days of the date of the decision or final action appealed. The Town Council will hear such appeal within thirty (30) days of filing of the appeal. (Prior code 5.12.080; Ord. 1252 §1, 2006)

ARTICLE 5

Medical Marijuana

Section 100 General

Sec. 6-5-101. Findings and Purpose.

Town Council finds that the cultivation, possession, sale and use of medical marijuana may be harmful to public health, safety, and welfare if not carefully regulated. This Article is designed to protect public health, safety, and welfare from the potential adverse effects of medical marijuana, while permitting medical marijuana to be cultivated, possessed, sold, and used in accordance with law. Town Council further finds and declares that the subject matter of this Article is a matter of local and municipal interest.

Town Council acknowledges that they have previously passed zoning and land use restrictions for Medical Marijuana Dispensaries under Town Ordinance No. 1323, Series of 2010, and now codified in the Telluride Land Use Code ("LUC") in Article 3, Division 9 (Section 3-910 *et. seq*). It is not the intent of this Article of the Telluride Municipal Code and this Medical Marijuana licensing scheme to alter or amend the zoning restrictions specified in LUC Section 3-910. Rather this licensing scheme and Article of the Telluride Municipal Code is designed to implement a local licensing authority and distinct rules for licensing medical marijuana, pursuant to the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et. seq.*, that is separate and distinct from the zoning aspects of LUC Article 3, Division 9. To the extent that any conflict exists between the terms of LUC Article 3, Division 9 and the provisions of this Article of the Telluride Municipal Code, it is the intent of the Town Council to have the provisions of the Telluride Municipal Code govern and control should a direct conflict exist. (Ord. 1348, 2011)

Sec. 6-5-102. Incorporation of general licensing provisions.

The provisions of the Telluride Municipal Code shall apply to this Article except where they may be inconsistent with the provisions of this Article. (Ord. 1348, 2011)

Sec. 6-5-103. Definitions.

The following definitions shall apply throughout this Article:

(a) The definitions contained in Article XVIII, Section 14, Colorado Constitution and C.R.S. §12-43.3-104 shall apply to this Article except where the ordinance provides a different definition or the context of this Article makes it clear that the statutory or constitutional definition does not apply.

(b) *Adjacent Grounds*: means all areas that the licensee has an exclusive right to possess by virtue of his ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots, and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers, and security devices.

(c) *Approve a License*: means to find that the requirements for a license have been met, but does not give the applicant the right to operate a medical marijuana facility until the license is issued.

(d) *Authority:* means the Telluride Medical Marijuana Licensing Authority, which may be either an individual hearing officer or a Board.

(e) *Character and Record*: includes all aspects of a person's character and record, including but not limited to moral character, criminal record, serious traffic offenses, record of previous sanctions against liquor licenses, gambling licenses, or medical marijuana licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager, or employee; education, training, experience, civil judgments, truthfulness, honesty, and financial responsibility.

(f) *Complaint*: means a document filed with the Authority by the Town, any of its Departments, or the Authority itself, seeking sanctions against a medical marijuana license.

(g) *Contiguous:* means located within the same building as the medical marijuana center, located in a separate building on the same parcel of land as the medical marijuana center, or located

in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the medical marijuana center is located.

(h) *Creditor:* means any person lending, paying, or providing funds, directly or indirectly, to pay any part of the costs of: (a) operating the medical marijuana facility, including but not limited to the costs of rent, mortgage payments, utilities, debt payments, supplies, product, equipment, advertising, vehicles, salary, and wages; or (b) purchasing an ownership interest, in any form, in the licensee business.

(i) *Employee*: means the licensee's or proposed licensee's employees.

(j) *Harm or Harmful to Public Health, Safety or Welfare*: means any matter that adversely affects the health, safety, or welfare of any person or group of persons within the Town of Telluride or any adjacent community, including but not limited to matters related to crime, lighting, security, traffic, graffiti, litter, parking, and noise. A showing of actual harm shall not be required and a showing of potential or threatened harm shall be sufficient. Any violation of any criminal statute or ordinance is per se substantially harmful to public health, safety, and welfare, without any showing of actual or threatened harm. The mere possession, advertising, sale, cultivation, processing, smoking, or ingestion of medical marijuana and medical marijuana infused products, when performed lawfully, shall not in itself be considered harmful to public health, safety, and welfare.

(k) *In Public*: means any area that the public may generally enter, including any business open to the public. The term includes the licensed premises and the adjacent grounds. The term includes persons in motor vehicles located in a public place.

(l) *Issue a License*: means to finalize the license after a previous approval of the license, and may or may not occur after approval of the license, depending on any completions, inspections, approvals, or conditions that the Authority may require to be satisfied before issuance. Issuance gives the licensee the ability to operate a medical marijuana facility, provided that the licensee also obtains a State license.

(m) *Licensee:* means the person or entity holding a medical marijuana license under this Article.

(n) *Licensed Premises*: means the area inside a building in which the cultivation, manufacture, processing, infusion, possession, weighing, display, packaging, sale, and exchange of medical marijuana or marijuana infused products is licensed under this Article.

(o) *Marijuana or Medical Marijuana*: except where the context clearly indicates otherwise, means growing marijuana plants, harvested marijuana in any state, and medical marijuana infused products of all kinds.

(p) *Medical Marijuana Facility*: means a medical marijuana center, an optional premises cultivation operation, or a medical marijuana infused products manufacturing operation.

(q) *Medical Marijuana License*: means any of the licenses described in Section 6-5-302, Telluride Municipal Code, as amended.

(r) *Medical Marijuana Card*: means any medical marijuana registration card issued to any patient or primary caregiver by the State of Colorado.

(s) *Operate or Operation*: means the matters described in Section 6-5-307(a)(3) and (a)(4), Telluride Municipal Code, as amended.

(t) *Patient*: means a person with a debilitating medical condition who has received a recommendation from a licensed physician to use medical marijuana and who has received a medical marijuana card from the State.

(u) *Permit*: when used as a verb means to:

(1) participate in or contribute to an act, conduct or omission;

(2) consent to or condone an act, conduct or omission;

(3) know or have reason to know that an act, conduct, or omission is or may be occurring, or probably will occur unless steps are taken to prevent the same, and failing to take

reasonable steps to halt, thwart or prevent the same; or

(4) ignore, avoid knowledge or notice of, or turn a blind eye to an act, conduct or omission that may be occurring.

(v) *Person*: means any natural person and any entity.

(w) *Principal*: means:

(1) In the case of any entity, including any general or limited partnership, corporation, limited liability company, or other entity: any person who has a 5% or greater interest in the ownership of the entity, and any person who has the day to day authority to or actually does manage the entity's finances.

(2) In the case of a corporation: the persons described for any entity in Subsection (w)(1) of this Section and the president, vice-president, secretary, chief executive officer, chief financial officer, and any person who holds 5% or more of the capital stock of the corporation.

(3) In the case of a limited liability company: the persons described for any entity in Subsection (w)(1) of this Section and any member of the limited liability company.

(4) In the case of a sole proprietorship, the individual owner.

(x) *Serious Traffic Offense*: means any driving offense carrying eight points or more under C.R.S. § 42-2-127 or the substantial equivalent of such offense in any other State.

(Ord. 1348, 2011)

Sec. 6-5-104. Time.

In calculating any period of time prescribed or allowed under this Article, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, even if it is a Saturday, Sunday, or legal holiday, unless the prescribed time period is ten (10) days or less.

Sec. 6-5-105. Certain confidential matters not public records.

(a) The following matters contained in the files and records of the Authority and the Town shall be confidential and shall not be public records:

(1) The location of any optional premises cultivation operation;

(2) The records described in Section 6-5-319(a)(b), Telluride Municipal Code, as amended;

(3) The results of the inspection of books, records and audits conducted under Section 6-5-320, Telluride Municipal Code, as amended;

(4) The results of inspections conducted under Section 6-5-321, Telluride Municipal Code, as amended; and

(5) Responses to requests for information made under Section 6-5-322, Telluride Municipal Code, as amended.

(6) The names of patients and primary caregivers and any record of the products they order or purchase from licensees;

(b) The confidentiality of the matters described in Subsection (a) of this Section shall not prevent any Town or State employee from accessing and reviewing such records if necessary or desirable as part of their assigned duties.
(Ord. 1348, 2011)

Sec. 6-5-106. No private duties, cause of action or remedies.

Nothing contained in this Article shall be construed as creating, directly or indirectly, any duty between private persons, a private cause of action, or any private legal remedy. (Ord. 1348, 2011)

Sec. 6-5-107. Construction and severability.

Any court of competent jurisdiction construing or applying this Article shall seek a saving construction and application that makes the provisions of this Article constitutional. In the event that any court of competent jurisdiction determines that any provision in this Article violates any constitutional right, despite the court's saving construction and application, the Court shall strike the offending provision only and sever the same from the remainder of this Article, which shall remain valid and effective.
(Ord. 1348, 2011)

Section II
Medical Marijuana Licensing Authority

Sec. 6-5-201. Licensing authority.

Pursuant to the authority granted by C.R.S. § 12-43.3-101 *et. seq*. the Town Council hereby establishes a Medical Marijuana Licensing Authority, which shall be handled by the position of Hearing Officer, which officer shall be appointed by Town Council Resolution and serve at the pleasure of the Town Council.

(Ord. 1348, 2011)

Sec. 6-5-202. Powers of Authority.

(a) The Authority shall have the following powers:

(1) To issue or deny medical marijuana licenses and renewals of the same within the Town.

(2) To impose sanctions on any license issued by the Authority on its own motion or on complaint by the Town or by any Person for any violation by the licensee after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard.

(3) To issue approvals and disapprovals as provided in this Article.

(4) To conduct hearings, grant or deny motions, make findings and orders, administer oaths, and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing which it is authorized to conduct.

(5) To control the mode, manner and order of all proceedings and hearings.

(6) To adopt rules, procedures and policies for its own proceedings.

(7) To adopt rules and policies for filing applications and requests.

(8) To adopt application forms and submission requirements, including a requirement that applications, complaints, and other documents be filed in a digital format approved by the Authority and to refuse applications, complaints and other documents not filed in the approved digital format.

(9) To perform any act that the Authority is authorized to perform under this Article.

(10) To perform any other act that may be implied or necessary to carry out any act that the Authority is authorized to perform under this Article.

(b) In the event that any person, in the immediate presence of the Authority or within its sight or hearing, while the Authority is in session during a hearing, commits a direct contempt of the Authority by speech, gesture, or conduct which disobeys a lawful order of the Authority, shows gross disrespect to the Authority tending to bring the Authority into public ridicule, or substantially interferes with the Authority's proceedings, the Authority may hold such person in contempt. Contemptuous conduct by any principal, registered manager, or employee shall be imputed to the licensee.

(c) The Authority may impose the following sanctions for contempt:

(1) Removal of the person committing the contempt from the proceedings, the hearing room and its environs;

(2) Public censure, which shall be made a matter of the licensee's record and may be used as an aggravating factor in determining any fine, suspension, or revocation;

(3) A prohibition against the individual or licensee introducing into the record testimony, documents, exhibits, or other evidence;

(4) An order striking, disregarding and refusing to consider pleadings, applications, documents, objections, testimony, exhibits, or other evidence or arguments already introduced by such person;

(5) A fine, enforced by suspension of the license until the fine is paid;

(6) Default of any motion, complaint, or other action then pending against the licensee; or

(7) Denial of any application by the licensee then pending before the Authority.

(Ord. 1348, 2011)

Sec. 6-5-203. Appeal of Authority decisions.

Actions taken by the Authority are subject to an appeal on the record directly to the Telluride Town Council by following the appeal provisions found in the Telluride Land Use Code Section 5-207, to the extent not otherwise modified by this Article. Appeal to the Telluride Town Council must be applied for within fourteen (14) days after the date of decision. Following an appeal decision by the Telluride Town Council, the decision is subject to review by the Courts pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Any person applying to the Court for review of a Telluride Town Council appeal decision shall be required to pay the cost of preparing a transcript of proceedings before the Authority and the Telluride Town Council whenever such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the Town pursuant to the Court order. (Ord. 1348, 2011)

Section III Licenses

Sec. 6-5-301. Licenses and permit required.

(a) No person shall operate a medical marijuana facility, unless he or she has first obtained the following and maintains the same in full force and effect:

(1) The applicant has obtained a certificate of zoning compliance, pursuant to Telluride Land Use Code Section 3-920 C. from the Town for the location of the proposed licensed premises;

(2) a Town sales and use tax license;

(3) a State sales and use tax license;

(4) a Town license for any other business activity that will be operated on the licensed premises;

(5) Ownership of, or a lease in effect on, the proposed licensed premises;

(6) A Town license to operate any other business that will be conducted on the licensed premises;

(7) a Town license to operate a medical marijuana facility; and

(8) a State license to operate a medical marijuana facility, or if the license is not yet issued, can demonstrate that the necessary complete application has been submitted to the State of Colorado.

(b) No person may apply for a license to operate a medical marijuana facility until he or she has first met the requirements stated in (a) (1) through (6) of this Section.

(Ord. 1348, 2011)

Sec. 6-5-302. Classes of medical marijuana licenses.

The Authority may issue the following licenses for medical marijuana facilities, granting the privileges described in Title 12, Article 43.3 C.R.S., subject to the requirements, conditions, qualifications, and limitations set forth in this Article:

(a) Medical Marijuana Center License;

(b) Optional Premises Cultivation License; and

(c) Medical Marijuana-Infused Products Manufacturing License. (Ord. 1348, 2011)

Sec. 6-5-303. Nature of license.

(a) Every license issued under this Article confers only a limited and conditional privilege subject to the requirements, conditions, limitations, and qualifications of this Article and State law. The license does not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited, or completely extinguished at the discretion of Town Council or the electorate of the Town, as provided in this Article and consistent with State law, without any compensation to the licensee.

(b) Every license approved or issued under this Article shall be subject to the future exercise of the reserved rights of referendum and initiative, exercise of the Local Option described in C.R.S. §12-43.3-106, and any other future ordinances adopted by a vote of the People of the Town of Telluride or Town Council. Nothing contained in this Article grants to any licensee any vested right to continue operating under the provisions of this Article as they existed at the time the license was

approved or issued, and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.

(c) In the event that the People of the Town of Telluride, by a majority of the registered electors of the Town, at a regular or special election, or a majority of Town Council, vote to prohibit by ordinance the licensing and operation of medical marijuana centers, optional premises cultivation operations, or medical marijuana infused products manufacturing operations, within the Town of Telluride, pursuant to C.R.S. §12-43.3-106, then every license issued or approved under this Article, which is prohibited under such ordinance, shall be deemed void and the operation of any medical marijuana facility prohibited under the ordinance shall become illegal on the effective day of the ordinance.

(d) Every license is separate and distinct and is tied to a specific location with specific conditions. The license cannot be assigned, delegated, sold, inherited, or otherwise transferred between persons or transferred to a different location, except as provided in this Article. No licensee shall exercise the privileges of any other license or delegate the privileges of its own license.

(e) The licenses issued under this Article consist of a limited and conditional privilege to operate a medical marijuana facility, provided that the licensee also obtains a State license. The license certificate issued by the Clerk of the Authority is merely evidence that a license was issued and is not the license itself. Assignment or conveyance of the license certificate alone does not transfer any right to the license.

(Ord. 1348, 2011)

Sec. 6-5-304. License and other fees.

(a) Applicants and licensees shall pay the following fees to the Town of Telluride in addition to any fees payable to the State:

(1) Application Packet for New License (which shall be credited against the application fee if a complete application is submitted): twenty-five dollars ($25).

(2) Application for New License:

(a) Medical Marijuana Center: one thousand dollars ($1,000).

(b) Marijuana Infused Products Manufacturing Operation: one thousand dollars ($1,000).

(c) Optional Premises Cultivation License (if submitted, accepted, processed and heard at the same time as an application for a Medical Marijuana Center License or Marijuana infused Products Manufacturing License): zero ($0).

(d) Optional Premises Cultivation License (if not submitted, accepted, processed, and heard at the same time as an application for a Medical Marijuana Center License or Marijuana infused Products Manufacturing License): one thousand dollars ($1,000).

(3) Application for and Renewal of a License: five hundred dollars ($500).

(4) Application for Transfer of Location: five hundred dollars ($500).

(5) Application for Change of Principals or Ownership: three hundred dollars ($300).

(6) Application for Modification of Premises: four hundred dollars ($400).

(7) Late Renewal Fee: five hundred dollars ($500).

(8) License Extension Fee: one hundred fifty dollars ($150) for each thirty (30) day period or portion thereof.

(b) Town Council may approve increases or decreases in the foregoing fees by resolution.

(c) In addition to the foregoing fees, applicants and licensees shall pay the reasonable fees of any governmental agency conducting any investigation, inspection, other licensing, registration, fingerprinting, approval, or permitting required under the Telluride Municipal Code, as amended, State law, or State regulations.

(d) The primary purpose of the fees provided in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of the general services of municipal government or to raise general

revenues. The fees provided in this Section are reasonably related and proportional to the costs of the services provided and do not generate additional Town revenue.

(e) If any license or application is denied, approved but not issued, lapsed, abandoned, withdrawn, surrendered, suspended, fined, revoked, or otherwise sanctioned, no part of the fees paid shall be refunded to the applicant or licensee. (Ord. 1348, 2011)

Sec. 6-5-305. Term of license.

Every license shall be valid for one year from the date it is issued unless the license is earlier revoked. (Ord. 1348, 2011)

Sec. 6-5-306. Coordination with State Medical Marijuana Licensing Authority and State requirements.

(a) The Authority shall inform the State Medical Marijuana Licensing Authority of its investigations, inspections, and all decisions approving new licenses, issuing new licenses, imposing conditions on licenses, renewing licenses, approving major changes in licenses, information regarding minor changes, and sanctions imposed on licenses.

(b) To the extent that such coordination is reasonably feasible and efficient, the Authority shall coordinate its investigations and actions with the State Department of Revenue, but the Authority reserves the right to act independently and to reach its own findings of fact, findings of law, and conclusions regarding approvals, issuance, denials, conditions, renewals, major changes, sanctions of licenses, and any other matter related to licenses, without regard to the findings of fact, findings of law, and conclusions that the State may reach regarding the same licenses based on the same incident or conduct.

(c) The approval or issuance of a license under this Article shall not constitute a representation, in any way, by the Authority that the licensee is qualified for or will receive a State medical marijuana license. (Ord. 1348, 2011)

Sec. 6-5-307. Application for medical marijuana license.

Except as otherwise provided in this Article, it shall be unlawful for any person to cultivate, sell or otherwise distribute marijuana for medical use in the Town of Telluride without first obtaining a license to operate as a licensed medical marijuana facility pursuant to the requirements of this Article. This licensing requirement shall apply regardless of whether or not a business that cultivates, manufactures or sells medical marijuana products has commenced operation prior to the effective date of this ordinance; provided, however, that any such business that was issued a retail sales tax license or a Certificate of Zoning Compliance by the Town and commenced operation prior to August 1, 2010 may continue operations until September 1, 2011. Thereafter, such business may continue to lawfully operate only if a medical marijuana facility license application for such business is filed on or before September 1, 2011 and the applicant is operating in compliance with all applicable requirements of this Article, the Colorado Medical Marijuana Code and all applicable State of Colorado rules and regulations implementing the Colorado Medical Marijuana Code. Under such circumstances, such facility may continue in operation pending final action and decision by the Authority on the application. Any preexisting medical marijuana facility that does not or cannot meet the licensing requirements set forth in this Article shall be denied a license. The business of any such applicant that is denied a license, or that does not submit a license application to the Authority by September 1, 2011, shall be terminated immediately upon such denial or upon missing the deadline (September 1, 2011) to file a license application. Application for a medical marijuana license shall be made to the Authority upon forms provided by the Town for that purpose.

(a) An applicant for a medical marijuana license shall submit to the Authority an application with the following information:

(1) Information required on the application forms prescribed by the State of Colorado;

(2) Information required on the application forms prescribed by the Authority, which may require any information, document or photograph relevant to any requirement for a license under State law or this Article, or relevant to any condition that may be imposed on the license; and

(3) An operational plan showing how the business, licensed premises and adjacent grounds will be operated, including but not limited to:

(a) how and where marijuana or marijuana infused products will be cultivated, advertised, processed, stored, packaged, exhibited, purchased, exchanged, and sold;

(b) how the business, licensed premises, and adjacent grounds will comply with each requirement contained in State law and Town ordinances, especially this Article;

(c) how the operation will reduce or mitigate adverse effects on the area in which it is situated, including but not limited to any adverse effects related to crime, traffic, parking, noise, and lighting;

(d) hours of operation;

(e) number of employees;

(f) parking for employees and customers on the adjacent grounds; and

(g) traffic flow into and out of the adjacent grounds;

(h) record keeping as required under State law and this Article; and

(i) Procedures for identifying patients when making sales.

(4) A security plan that addresses:

(a) methods to prevent and protect employees, patients, primary caregivers and others from robberies and assaults on the licensed premises and adjacent grounds;

(b) methods to prevent burglaries on the licensed premises and adjacent grounds when the premises are closed;

(c) exterior lighting of the building and adjacent grounds;

(d) windows from the licensed premises providing a view from inside the licensed premises to the adjacent grounds;

(e) locks, burglar alarms and a safe or vault as required in this Article; and

(f) a limited access area barrier, limited access area, and employee badges for entering the limited access area as required under state law and this Article.

(b) The entire application shall be verified under oath by each principal in the applicant business. The registered manager and employees shall verify under oath the portions of the application that pertain to each of them.

(c) The applicant shall submit to the Authority the original application and five (5) copies of the application. The Authority shall provide copies to the Marshal's Department, the Planning Department, and the Legal Department.

(d) An applicant shall not submit its application, and the Authority shall not accept the same, until the application is complete with all required information and necessary documents attached, in clear and legible form, assembled in good order, and with all required copies. The applicant shall certify that the application is complete and the Authority or the Authority's Clerk shall review the application to determine that it appears to be complete before accepting the same.

(e) The determination by the Authority or its Clerk that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Article for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the Authority may note concerns or deficiencies in the application and its contents in the Authority's determination and findings after conducting its *ex parte* review of the application as provided in Section 6-5-310.

(f) After an application is accepted as complete, it may be amended or supplemented in writing before the application is set for hearing, but each amendment shall be verified under oath by each principal, and the registered manager and

employees shall verify under oath the portions of any amendment that pertain to each of them. The applicant shall submit to the Authority the original of each amendment and five (5) copies of each amendment. The Authority shall provide copies to the Marshal's Department, the Planning Department, and the Legal Department.

(g) After the application is set for hearing, the application shall not be amended and the Authority shall rule on the application as it exists at the time the hearing is set. (Ord. 1348, 2011)

Sec. 6-5-308. Requirements to obtain and retain a medical marijuana license.

In order to obtain a license the applicant shall demonstrate by a preponderance of the evidence to the Authority that the following requirements are satisfied:

(a) Requirements for licenses.

(1) Whether or not the applicant was established on or before July 1, 2010 as defined in C.R.S. §12-43.3-103(1)(a), the applicant has completed and submitted the forms and paid the fees to the State Department of Revenue required under C.R.S. § 12-43.3-103(1)(b) by August 1, 2010.

(2) Whether or not the applicant was established on or before July 1, 2010 as defined in C.R.S. §12-43.3-103 (1)(a), the applicant demonstrates that it has certified to the State Department of Revenue, on or before September 1, 2010, that it is cultivating at least seventy percent (70%) of the medical marijuana necessary for its operation, as required in C.R.S. §12-43.3-103(2)(b) and that the applicant is prepared to certify to the State Department of Revenue, on a continuing yearly basis that it is cultivating at least seventy percent (70%) of the medical marijuana necessary for its operation, as required in C.R.S. §12-43.3-103(2)(b).

(b) General Requirements.

(1) The applicant has obtained a certificate of zoning compliance, pursuant to Telluride Land Use Code Section 3-920 C. from the Town for the location of the proposed licensed premises;

(2) The applicant has obtained a Town sales and use tax license;

(3) The applicant has obtained a State sales and use tax license;

(4) The applicant has obtained a Town license for any other business activity that will be operated on the licensed premises;

(5) The applicant has submitted an application for a license that the Clerk to the Authority has determined is complete; and

(6) The applicant has paid all fees required under this Article.

(c) Personal Requirements for the Licensee, Principals, Registered Manager and Employees.

(1) The applicant, principals, registered manager, and employees meet all requirements for issuance of a State license.

(2) The applicant, principals, registered manager, and employees are all at least twenty-one (21) years of age.

(3) The applicant, principals, registered manager, and employees have not been determined by any medical marijuana licensing authority, any other licensing board within the State, or the Colorado Department of Revenue to not be persons of good character and record within the preceding three (3) years.

(4) The applicant, principals, registered manager and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application. This shall constitute a per se and complete disqualification.

(5) The applicant, principals, registered manager and employees have never been convicted of a felony pursuant to state or federal law regarding the possession, distribution, of use of a controlled substance.

(6) The applicant, the applicant's creditors, principals, registered manager, and employees are persons of good character and record. When making any determination as to good character and record, the Authority may consider whether an applicant, principal, registered manager, or employee has rehabilitated himself after committing a crime or other act or omission tending to indicate that such person is

not a person of good character, but rehabilitation shall not be considered when the crime or other disqualifying act or omission is declared a per se disqualification under this Article. Notwithstanding any other burden for proof stated in this Article, the burden of proof to show that a person has been rehabilitated shall be beyond a reasonable doubt and shall be on the individual whose character is at issue. When evaluating claims of rehabilitation, the Authority shall consider the following factors:

(a) The facts of the specific crime or other act tending to show bad character and record;

(b) Whether the specific crime or other act tending to show bad character and record involved controlled substances, dishonesty, fraud, bad faith, moral turpitude, or violence;

(c) Whether the specific crime or other act tending to show bad character and record involved a felony, misdemeanor, municipal offense, a civil wrong, or other wrongful conduct;

(d) Whether the specific crime or act caused injury or harm to other persons or entities and the extent of such harm or injury;

(e) The length of time that has expired since the act or omission was committed;

(f) Whether the person has led a law abiding life and has demonstrated good character since the act or omission was committed;

(g) Whether the person has committed other acts tending to indicate bad character since the act or omission was committed;

(h) Restitution, damages and compensation that the person has paid to persons victimized by the act or omission;

(i) Fines, jail sentences, probation, community service and other penalties paid or served since the act was committed; and

(j) Any other factor tending to show that the person has or has not rehabilitated his or her character and conduct.

(7) The applicant, principals and registered manager have not held an interest in any liquor license, medical marijuana license, or other license issued by any Town, County, or State that has been revoked, suspended, or fined within the preceding two (2) years.

(8) The applicant, principals, registered agent, creditors, and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.

(9) The applicant, principals, and employees are not in default on any Town, County, State or Federal taxes, fees, fines, or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the Town.

(10) The applicant and principals are not in default on any student loan.

(11) The applicant, principals, and employees are trained or experienced in, and able to comply with, the requirements of this Article and State law pertaining to medical marijuana facilities. In determining whether an applicant, principal, or employee has shown sufficient training or experience, the Authority shall consider, among other things, the following factors:

(a) The role that the individual will play in operating the facility;

(b) Previous experience operating medical marijuana facilities;

(c) Completion of state or industry approved courses on how to comply with Colorado laws and regulations regarding medical marijuana facilities; and

(d) The individual's understanding of state law and town ordinances regulating medical marijuana as shown under questioning by the authority at the hearing.

(12) The applicant, principals, registered manager, and employees all hold valid occupational licenses and registrations for medical marijuana issued by the State of Colorado.

(13) The applicant and principals do not have any orders or judgments against them for child support in default or arrears.

(14) The applicant and principals are not peace officers or prosecuting attorneys.

(15) The applicant and principals are not licensed physicians who recommend medical marijuana.

(16) The applicant and principals do not have an ownership or financial interest in more than one other license issued in the Town of Telluride.

(17) If the license or principals already hold one medical marijuana license in the Town of Telluride, and the application is for another medical marijuana license of the same class, issuance of the second license will not significantly restrain competition among licensees of that class.

(18) The applicant and principals have not previously violated provisions of Telluride Municipal Code or the Telluride Land Use Code relating to the medical marijuana business.

(d) Location and other licensing of premises.

(1) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a State license.

(2) The proposed licensed premises are located in a fixed, permanent, non-portable building and are not located in a movable or mobile structure or in a vehicle.

(3) The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in C.R.S. Section 12-47-103(2), or as a massage parlor, a dance hall, or an amusement facility.

(4) The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

(5) No medical marijuana license of the same class has been denied at the location of the proposed licensed premises or at another location within one thousand (1,000) feet of the proposed licensed premises, as measured from any wall of the two (2) proposed licensed premises, within the preceding two (2) years due to the nature of the use or other concern related to the location.

(6) The premises are not located within 500 feet of any public or private school as such school is defined by C.R.S. § 12-47-103(32).

(e) Control, Security, and Code Compliance of Premises.

(1) The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

(2) The proposed licensed premises have a suitable limited access area where the cultivation, display, storage, processing, weighing, handling, and packaging of medical marijuana and marijuana infused products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter, or some other substantial barrier designed to keep the public from entering the area.

(3) The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the Marshal's Department, showing at least the following security measures:

(a) all doors, windows and other points of entry have secure and functioning locks;

(b) a locking safe or enclosed metallic storage vault located inside the proposed licensed premises in which any harvested medical marijuana and medical marijuana infused products will be secured when the licensed premises are not open to the public;

(c) if the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two premises that can be locked from the licensee side and cannot be opened from the other side;

(d) a professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the proposed licensed; and

(e) windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that customers entering and leaving the licensed premises, entering and exiting parked cars on the adjacent grounds, and walking

across the adjacent grounds can be observed by employees from inside the licensed premises.

(4) The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire, and other codes, statutes, and ordinances, as shown by completed inspections and approvals from the Telluride Planning Department, Telluride Fire Protection District, and County Health Department.

(5) There is sufficient parking available on the proposed adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time, pursuant to applicable provisions of the Telluride Land Use Code.

(6) The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause any substantial harm to public health, safety and welfare.

(f) Requirements Specific to a Medical Marijuana Center License.

(1) The applicant will cultivate at least seventy percent (70%) of the marijuana sold or exchanged on the licensed premises.

(2) The area of the proposed licensed premises utilized is equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by a reasonable person, including to any public property or right of way within the Town. The ventilation system must be inspected and approved by the Telluride Building Department.

(g) Requirements Specific to Optional Premises Cultivation License.

(1) The applicant also holds a medical marijuana center license or a medical marijuana infused products manufacturer's license.

(2) The proposed licensed premises are either contiguous to the licensee's licensed premises for a licensed medical marijuana center or a marijuana infused products manufacturer's operation or are located outside the Town of Telluride.

(3) The area of the proposed licensed premises utilized for cultivation, is equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by a reasonable person, including to any public property or right of way within the Town. The ventilation system must be inspected and approved by the Telluride Building Department.

(4) The proposed licensed premises are located in a separate building that does not share any doors, windows, air passages, vents, ducts or any heating, ventilation, air conditioning, or air handling equipment or structures with any other building or premises whatsoever, including but not limited to a medical marijuana center or medical marijuana infused products manufacturing center.

(5) Walls, barriers, locks, signs and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation.

(6) No portion of the building in which the proposed licensed premises are located is utilized as a residence.

(h) Requirements Specific to a Marijuana Infused Product Manufacturer's License:

(1) The applicant has a contract with a medical marijuana center, stating the type and quantity of medical marijuana infused product that the medical marijuana center will buy from the licensee;

(2) The applicant also obtains an optional premises cultivation license, which is either contiguous to the licensed premises of the medical marijuana center or located outside the Town of Telluride;

(3) The applicant cultivates at least seventy percent (70%) of the marijuana necessary for its operation; and

(4) The applicant will use marijuana from no more than five (5) marijuana providers, including its own optional premises cultivation

operation to manufacture its marijuana infused products.

(i) Requirements for Premises That Are Not Completed.

(1) If the proposed licensed premises have not been completed, inspected, and approved as required in this Article at the time of the hearing for a new license or a hearing on transfer of an existing license to a new location, the applicant shall submit to the Authority:

(a) a recorded deed to the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

(b) plans, specifications, drawings, and other documents showing that the proposed licensed premises and adjacent grounds will probably comply with the requirements of this Article when completed and inspected.

(2) The Authority may approve the license before the proposed licensed premises are completed, inspected and approved, but shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Article have been obtained and submitted to the Authority.

(3) In the event that the license is approved, but the premises are not completed, inspected and approved as required in this Article within one hundred and twenty (120) days of approval, the approval shall lapse and the license shall not be issued.

(j) Requirements of this Section also apply to licensees; continuing duty.

(1) The requirements of this Section imposed on any applicant shall also apply to any licensee. The requirements of this Section imposed on any proposed licensed premises, proposed adjacent grounds, or proposed location shall also apply to licensed premises, adjacent grounds, and actual locations, respectively.

(2) Every licensee and its principals, registered manager, and employees has a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect. (Ord. 1348, 2011)

Sec. 6-5-309. Good cause for denial of new license, denial of renewal, or sanctions.

The Authority may deny a new application, deny renewal of a license, or impose sanctions on a medical marijuana license previously approved or issued if the Authority finds, by a preponderance of the evidence at a hearing, or upon the admission or stipulation of the applicant or licensee, that any of the following have occurred:

(a) The licensee, principals, manager, employees, the licensed premises, or the adjacent grounds do not meet or no longer meet one or more of the requirements of Sections 6-5-301 or 6-5-308 of this Article, any other provision of Telluride Municipal Code, as amended, State law, or State regulations;

(b) The licensee has failed to obtain any State license, certification, registration or approval, or meet any other requirement imposed by State law or regulations;

(c) The licensee, principals, manager, or employees, have committed or attempted to commit any violation of any Town ordinance, State statute, or State regulation or have permitted others to violate the same on the licensed premises or adjacent grounds or on other licensed premises or adjacent grounds;

(d) The licensed premises have been operated in a way that substantially deviates from the operational plan approved by the Authority;

(e) The licensed premises or adjacent grounds have been operated in a way that substantially harms the public health, safety, or welfare;

(f) A check, credit card, debit card, or other payment for any tax, fee, fine, fine in lieu, or other sum due to the Town from the licensee has been stopped or rejected for insufficient funds, closed account, or similar reasons;

(g) Any tax, fee, fine, fine in lieu of suspension, or other sum due to the Town from the licensee is unpaid and more than thirty (30) days in default; or

(h) The licensed premises have not been operated for more than one (1) year. (Ord. 1348, 2011)

Sec. 6-5-310. Review of application for new license, determination and findings.

(a) Within thirty (30) days of the date that the Clerk to the Authority or the Authority itself accepts an application for a new medical marijuana license as complete, the Authority shall review the application *ex parte* and issue its determination and findings. The Authority's *ex parte* determination and findings shall:

(1) State that the application appears to show a prima facie case for approval of a license, state any concerns that the Authority may have, and direct the applicant to set a hearing under Section 6-5-311; or

(2) State that the application does not appear to show a prima facie case for approval of a license, state the deficiencies, and indicate that the applicant has a right to set the matter for a hearing under Section 6-5-311.

(b) The Authority shall notify the applicant in writing of its *ex parte* determination and findings by first class U.S. mail addressed to the applicant at the address shown on the application.

(c) If the *ex parte* determination provided in this Section states that the application appears to show a prima facie case for approval of a license, the applicant shall, within twenty (20) days of the date the Authority mailed its *ex parte* determination and findings to the applicant, pursue one of the following options, and failure to do so shall constitute a withdrawal of the application:

(1) set the application for a hearing under Section 6-5-311 as provided in Section 6-5-501(f) of this Article; or

(2) request from the Authority in writing a continuance of the setting of the hearing under Section 6-5-311 for no more than sixty (60) days from the date the Authority mailed its *ex parte* determination and findings to the applicant, in order to satisfy any concerns stated in the *ex parte* determination and findings, if any. Failure of the applicant to set the application for a hearing within sixty (60) days the date the Authority mailed its *ex parte* determination and findings to the applicant, in the manner provided in Section 6-5-501(f) of this Article, shall constitute a withdrawal of the application.

(d) If the *ex parte* determination provided in this Section states that the application does not appear to show a prima facie case for approval of a license, the applicant shall, within twenty (20) days of the date the Authority mailed its *ex parte* determination and findings to the applicant, pursue one of the following options, and failure to do so shall constitute a withdrawal of the application:

(1) set the application for a hearing under Section 6-5-311 as provided in Section 6-5-501(f) of this Article; or

(2) request from the Authority in writing a continuance of the setting of the hearing under Section 6-5-311 for no more than one-hundred and twenty (120) days from the date the Authority mailed its *ex parte* determination and findings to the applicant, in order to satisfy the deficiencies stated in the *ex parte* determination and findings. Failure of the applicant to set the application for a hearing within one-hundred and twenty (120) days from the date the Authority mailed its *ex parte* determination and findings to the applicant, in the manner provided in Section 6-5-501(f) of this Article, shall constitute a withdrawal of the application.

(e) Withdrawal of an application under this Section shall not constitute a denial of the application under Section 6-5-308(d)(5) and shall not prevent the applicant from re-submitting its application upon payment of a new application fee.

(f) The determination and findings made on the Authority's *ex parte* review of the application under this Section shall not be binding on the Authority or any person who has standing at a hearing under Section 6-5-311 of this Article, and any matter that the *ex parte* determination and findings state has been met, has not been met, or which the determination and findings do not address, may be addressed in full at the hearing. (Ord. 1348, 2011)

Sec. 6-5-311. Hearing on application for new license or the denial of a new medical marijuana license.

(a) Before approving or issuing any medical marijuana license, and upon request of any applicant whose application has been summarily denied *ex parte* for failure to show a prima facie case for approval of a license, the Authority shall hold a hearing at which it shall hear evidence relevant to:

(1) whether the applicant has met the requirements necessary to obtain a medical marijuana license in Sections 6-5-301 and 6-5-308, Telluride Municipal Code, as amended;

(2) whether there is good cause for denial of the license as defined in Section 6-5-309, Telluride Municipal Code, as amended; and

(3) whether conditions should be imposed on the license as provided in Section 6-5-312, Telluride Municipal Code, as amended.

(b) The issues at the hearing shall be limited to the foregoing and shall not include whether persons favor or approve of medical marijuana or favor or oppose medical marijuana licenses in general.

(c) If the Authority finds at the hearing that the applicant has shown by a preponderance of the evidence that it has met the requirements necessary for issuance of a medical marijuana license and that there is no good cause to deny the license, the Authority shall approve the license or approve the license with conditions as provided in Section 6-5-312, Telluride Municipal Code, as amended. If the licensed premises and adjacent grounds have been completed, inspected, and approved as provided in this Article, the Authority shall issue the license forthwith. If not, the Authority shall withhold issuance of the license until the applicant demonstrates that the licensed premises have been completed in substantial compliance with the plans, specifications, and drawings previously submitted and approved, and the licensed premises have been inspected, and approved as provided in this Article. In the event that the licensed premises are not completed, inspected and approved within one hundred and twenty (120) days of the approval, the approval shall lapse and the license shall not be issued.

(d) If the Authority finds at the hearing that the applicant has not shown by a preponderance of the evidence that it has met the requirements for issuance of a medical marijuana license or if by a showing of a preponderance of the evidence that there is good cause to deny the license, the Authority shall deny the license. (Ord. 1348, 2011)

Sec. 6-5-312. Conditions on licenses.

At the time that a new license is first approved, when an existing license is renewed, at any time that a sanction other than revocation is imposed, or at any time that the Authority approves a major change to a license, licensed premises, or adjacent grounds the Authority may impose on the license, after a hearing, any condition related to the license, licensed premises, or adjacent grounds, that is reasonably necessary to protect public health, safety, or welfare, including but not limited to the following:

(1) additional security requirements, including but not limited to security guards, steel doors, steel window coverings, and surveillance cameras;

(2) additional record keeping requirements;

(3) limits and requirements on parking and traffic flow;

(4) requirements for walls, doors, windows, locks, and fences on the licensed premises and adjacent premises;

(5) limits on the number of registered medical marijuana patients who may patronize the establishment;

(6) limits on the quantity of marijuana that may be sold to a marijuana infused product manufacturer;

(7) limits on medical marijuana infused products;

(8) requirements and limits on ventilation and lighting;

(9) limits or requirements on areas on the licensed premises that are closed, locked, or not open to public view;

(10) limits on the products other than medical marijuana and marijuana infused products that can be sold on the premises;

(11) limits on noise inside the license premises or on the adjacent grounds;

(12) prohibitions on certain conduct on the premises;

(13) sanitary requirements;

(14) limits on hours of operation;

(15) requirements for screening new and existing employees;

(16) requirements for identifying medical marijuana patients and primary caregivers;

(17) a requirement that the licensee temporarily close the licensed premises to the public until certain changes, inspections, or approvals are made; and

(18) a limit on the square footage of the licensed premises.

(a) The Authority may impose the foregoing conditions in lieu of or in addition to any sanctions that it may impose, except where the sanction is revocation.

(b) Any condition imposed on a license shall be placed on the face of the license certificate. (Ord. 1348, 2011)

Sec. 6-5-313. License certificate; posting of license certificate and notices on licensed premises.

(a) After the Authority issues a license, the Clerk of the Authority shall issue to the licensee a certificate evidencing issuance of the license. The license certificate shall state the date issued, the term of the license, the name of the licensee, the address of the premises, conditions on the license, and the following:

THIS LICENSE CONFERS ONLY A LIMITED AND CONDITIONAL PRIVILEGE SUBJECT TO THE REQUIREMENTS, CONDITIONS, LIMITATIONS, AND QUALIFICATIONS OF THE TELLURIDE MUNICIPAL CODE, AS AMENDED, THE TELLURIDE LAND USE CODE, AS AMENDED, AND STATE LAW. THIS LICENSE DOES NOT CONFER A PROPERTY RIGHT OF ANY KIND. THE LICENSE AND THE PRIVILEGE CREATED BY THE LICENSE MAY BE FURTHER REGULATED, LIMITED OR COMPLETELY EXTINGUISHED BY THE TOWN WITHOUT ANY COMPENSATION TO THE LICENSEE. THIS LICENSE IS SUBJECT TO THE FUTURE EXERCISE OF THE LOCAL OPTION DESCRIBED IN C.R.S. § 12-43.3-106 AND OTHER FUTURE ORDINANCES PASSED BY THE PEOPLE OF THE TOWN OF TELLURIDE OR TOWN COUNCIL. THE HOLDER OF THIS LICENSE SHALL BE SUBJECT TO ANY ORDINANCE OR PROHIBITION PASSED AFTER THE LICENSE WAS APPROVED OR ISSUED. IN THE EVENT THAT THE PEOPLE OF THE TOWN OF TELLURIDE, BY A MAJORITY VOTE OF THE REGISTERED ELECTORS OF THE TOWN, AT A REGULAR OR SPECIAL ELECTION, OR A MAJORITY OF TOWN COUNCIL, VOTE TO PROHIBIT BY ORDINANCE THIS TYPE OF LICENSE AND THE OPERATION OF THIS TYPE OF MEDICAL MARIJUANA FACILITY WITHIN THE TOWN OF TELLURIDE, PURSUANT TO C.R.S. §12-43.3-106, THEN THIS LICENSE SHALL BE VOID AND THE OPERATION OF THIS MEDICAL MARIJUANA FACILITY SHALL BE ILLEGAL ON THE EFFECTIVE DAY OF SUCH ORDINANCE.

(b) The licensee shall post the following on the licensed premises in a prominent place where the public, patients, and primary caregivers can easily view and read while standing in a location accessible to the public:

(1) The license certificate issued by the State, along with any conditions on the same.

(2) The license certificate issued by the Authority along with any conditions on the same.

(3) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS MEDICAL MARIJUANA LICENSED PREMISES IS MANAGED

BY: (STATE NAME, ADDRESS AND PHONE NUMBER FOR REGISTERED MANAGER). THE PRINCIPALS IN THIS BUSINESS ARE AS FOLLOWS: (NAMES)

(4) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

IF YOU HAVE CONCERNS ABOUT THE WAY THIS MEDICAL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE TELLURIDE MARSHAL'S DEPARTMENT AT: 728-3818; and

(5) If the Licensee has received any sanction from the Authority during the preceding five years, a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS MEDICAL MARIJUANA LICENSE HAS BEEN SANCTIONED BY THE TELLURIDE MEDICAL MARIJUANA LICENSING AUTHORITY DURING THE PRECEDING FIVE (5) YEARS FOR THE FOLLOWING MISCONDUCT:
(STATE DATE, VIOLATION, AND SANCTION RECEIVED, LISTING ALL VIOLATIONS AND SANCTIONS IMPOSED IN THE PRECEDING FIVE (5) YEARS).

(6) A notice at least thirty (30) inches by thirty (30) inches in letters at least one (1) inch in height, stating:

THE MEDICAL MARIJUANA, MARIJUANA PLANTS, AND MEDICAL MARIJUANA INFUSED PRODUCTS SOLD ON THESE PREMISES ARE CULTIVATED, MANUFACTURED AND PROCESSED WITHOUT ANY GOVERNMENTAL OVERSIGHT AS TO HEALTH, SAFETY OR EFFICACY.

THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA INFUSED PRODUCTS.

THE CHEMICALS, ADDITIVES, PESTICIDES, HERBICIDES, AND FERTILIZERS, ARTIFICIAL AND NATURAL, USED IN THE CULTIVATION, PROCESSING, PRODUCTION, AND STORAGE OF THE PRODUCT ARE LISTED ON THE PACKAGING OF EACH PRODUCT.

(7) A notice at least thirty (30) inches by thirty (30) inches in letters at least one (1) inch in height, stating:

THE DIVERSION OF MEDICAL MARIJUANA FOR NON-MEDICAL PURPOSES IS A VIOLATION OF STATE LAW.

THE USE OF MEDICAL MARIJUANA MAY IMPAIR A PERSON'S ABILITY TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY. IT IS ILLEGAL UNDER STATE LAW TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY MARIJUANA.

POSSESSION AND DISTRIBUTION OF MEDICAL MARIJUANA IS A VIOLATION OF FEDERAL LAW.

SMOKING OR CONSUMING MEDICAL MARIJUANA WITHIN THESE PREMISES, WITHIN 15 FEET OF THESE PREMISES, OR ANYWHERE IN PUBLIC IS UNLAWFUL.

SMOKING OR CONSUMING MEDICAL MARIJUANA CAUSES LUNG CANCER, HEART DISEASE, EMPHYSEMA, AND MAY COMPLICATE PREGNANCY.

(c) The licensee shall post the following on the licensed premises in a prominent place near other notices to employees, where the licensee, principals, registered manager, and employees can easily view the same: a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

NOTICE TO LICENSEE, PRINCIPALS, REGISTERED MANAGER AND EMPLOYEES:
THESE PREMISES, THE ADJACENT GROUNDS, AND EVERY ROOM, AREA, LOCKER, SAFE, AND CONTAINER ON THE LICENSED PREMISES AND ADJACENT GROUNDS EXCEPT YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE, ARE SUBJECT TO INSPECTION BY TOWN EMPLOYEES AND THE TOWN MARSHALS DEPARTMENT AT ANY TIME THAT ANY PERSON IS PRESENT ON THE LICENSED PREMISES, WITHOUT A WARRANT, AND WITHOUT REASONABLE SUSPICION TO BELIEVE THAT ANY OFFENSE HAS OCCURRED. YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY ON THESE PREMISES AND THE ADJACENT GROUNDS EXCEPT IN YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE. (Ord. 1348, 2011)

Sec. 6-5-314. Registered manager.

Every licensee shall designate one (1) registered manager and delegate to the registered manager authority over the day to day operations of the licensee and the responsibility to ensure that the licensed premises and adjacent premises are operated in compliance with this Article. (Ord. 1348, 2011)

Sec. 6-5-315. Major changes to license, licensed premises, or adjacent grounds requiring approval of the Authority.

(a) No licensee shall make any of the following major changes without first obtaining the written approval of the Authority:

(1) any transfer of the license or any ownership interest in the licensee entity or license;

(2) any change in location of the licensed premises;

(3) any change in the licensee's principals;

(4) the hiring, substitution, resignation, replacement, or termination of the registered manager;

(5) any change in ownership of any of the stock of the licensee corporation;

(6) any change in the structure, walls, doors, windows, ventilation, plumbing, electrical supply, floor plan, footprint, elevation, operation, operational plan, patios, decks, safe or vault, locks, surveillance system, doors, window coverings, or security system at the licensed premises;

(7) any material change to the adjacent grounds, including but not limited to lighting, parking, traffic flow through and the adjacent grounds surfaces, landscaping, fences, speakers, or sound; and

(8) any material change in or deviation of the operation from the operational plan submitted at the time that the license was approved.

(b) The Authority shall require a public hearing before approving any change of location.

(c) The Authority may summarily approve all other proposed major changes or a hold a public hearing on the same, in the Authority's discretion, depending on how substantial the change appears to be and whether the proposed change is likely to cause any substantial harm to public health, safety, or welfare.

(d) At any hearing regarding any of the foregoing major changes, the Authority shall determine whether the proposed change would probably cause substantial harm to public health, safety or welfare or result in a violation of any law or regulation. If the Authority finds that the major change will probably not cause substantial harm to public health, safety or welfare or result in a violation of any law or regulation, it shall approve the major change. If the Authority finds that the proposed major change would probably harm public health, safety or welfare or result in a violation of any law or regulation, the Authority may either disapprove the proposed major change or impose conditions on the license.

(e) No application for transfer of ownership, transfer of location, or other major

change may be applied for or acted upon while any complaint for sanctions is pending with the Authority or the State.

(f) The transfer of a license to a new owner does not constitute a new license. The transferee of a license or ownership interest in a license takes transfer of such license or interest subject to the conditions, waivers, history, record, and sanctions imposed on that license under the previous ownership of the license. The fact that the license is owned by new persons or entities shall not preclude the Authority from considering the history, record, and past sanctions imposed on the license under previous ownership when the Authority considers new sanctions for violations committed under new ownership of the license. (Ord. 1348, 2011)

Sec. 6-5-316. Reports of minor changes.

Every licensee shall report the following to the Authority, in writing within ten (10) days of such event:

(a) any new creditors or debts that the licensee or its principals may incur that are related to the licensed premises, adjacent grounds, or any ownership interest in the licensee, in a single or cumulative amount greater than one thousand dollars ($1,000);

(b) any charges filed against or any conviction of any principal, registered manager, or employee for any felony, misdemeanor, or serious traffic offense including but not limited to any deferred judgment or entry into any diversion program ordered or supervised by a court of law;

(c) the hiring, dismissal or resignation of any employee. (Ord. 1348, 2011)

Sec. 6-5-317. Renewal of License.

(a) A licensee may renew its license by submitting an application at least thirty (30) days before and no more than ninety (90) days before the expiration of the license. If a licensee fails to file an application for renewal of his license at least thirty (30) days before expiration of the license, the license shall expire.

(b) A licensee may renew a license that has expired, if:

(1) the license has expired less than ninety (90) days; and

(2) the licensee pays the regular renewal fee and an additional five hundred dollars ($500) late renewal fee.

(c) In the event that an application for renewal has been filed at least thirty (30) days before the expiration of the previous license, but the Authority does not rule on the application for renewal before the expiration of the previous license, the previous license shall be deemed extended until the Authority rules on the application for renewal, but in no event may the license be extended more than ninety (90) days under this Subsection. The licensee shall pay a license extension fee for any such extension.

(d) The Authority may hold a hearing on any application for renewal. The Authority may summarily grant an application for renewal without a hearing if it appears from the application and other information that the licensee is:

(1) in compliance with this Article;

(2) there have not been any significant changes in the licensee, the principals, the licensed premises, the adjacent grounds, or the registered manager previously approved; and

(3) there is no reason to believe that there are any grounds for sanctions or denial of the license.

(e) The Authority shall set a public hearing on the application for renewal if it finds that there is probable cause to believe that the licensee is:

(1) not in compliance with this Article or has committed violations of this Article or is not in compliance with State law or State regulations pertaining to medical marijuana or has committed violations of State law or State regulations pertaining to medical marijuana; or

(2) there is probable cause to believe that there are grounds for sanctions as provided in this Article;

(3) there have been any major changes described in Section 6-5-315, Telluride Municipal Code, as amended, or any unreported minor changes described in Section 6-5-316, Telluride Municipal Code, as amended.

(f) The fact that the Authority has granted a renewal of a license shall not constitute a waiver of any previous violations and shall not estop or bar the Town from seeking sanctions for, or the Authority from imposing sanctions for, any violation that occurred during any license period before the renewal. (Ord. 1348, 2011)

Sec. 6-5-318. Tradenames, trademarks, logos, labels, packaging, and advertising.

(a) It shall be unlawful for any licensee to use any logo, trademark, tradename, signs, label, packaging or advertising using the word "marijuana," "cannabis," any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, any image of a cannabis leaf, or any depiction of any paraphernalia or other image commonly understood as referring to marijuana, unless such word or phrase is each and every time immediately preceded by the word "medical" and provided that all words are the same size, style and font. This restriction is intended to apply to any and all signage associated with the licensed premises, any and all advertising, in whatever format, for the licensed premises and any and all representations of the licensed premises to the public. Furthermore, to comply with provisions of Colorado law found at C.R.S. § 12-43.3-901(4), wherein it is "unlawful for any person licensed to sell medical marijuana pursuant to this article: (b) To use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors" it shall be unlawful for any licensee to refer to infused medical marijuana products by solely referencing or describing or depicting by picture or image the type of infused products such as, but not limited to, Ice Cream, Yogurt, Truffles, Candy, Soda, Caramels, Juice or Brownies. Each and every reference to such infused medical marijuana products each and every time must also include the word "marijuana" or phrase commonly understand as referring to marijuana and immediately preceded by the word "medical" subject to the same size, style and font.

(b) Nothing contained in this Section shall be construed as creating a prior restraint on speech or press. The Authority shall not require an applicant or licensee to obtain any approval or license from the Authority before using any logo, trademark, tradename, label, packaging or advertising. Nothing contained in this subsection shall prevent the Town from taking civil, administrative or criminal action against any person or license after any logo, trademark, tradename, label, packaging or advertising has been used.

(c) Any court of competent jurisdiction construing or applying this Section shall seek a saving construction and application that makes the Section constitutional. In the event that any court of competent jurisdiction determines that any provision in this Section violates any right that any person may have to free speech or press, despite the court's saving construction and application, the Court shall strike this Section only and sever the same from the remainder of this Article, which shall remain valid and effective without this Section. (Ord. 1348, 2011)

Sec. 6-5-319. Books and records.

(a) Every licensee shall maintain on the licensed premises at any time that any person is present on the licensed premises, accurate and up to date books and records of the business operations of the licensee, or an authentic copy of the same, including but not limited to the following:

(1) Lists, manifests, orders, invoices, and receipts for all marijuana, marijuana plants, and marijuana infused products cultivated, harvested, processed, produced, delivered, purchased, stored, sold, and exchanged during the preceding two (2) years, by each transaction or event, including the date and time of each transaction, source, strain, type, quantity, weight, and purchaser and whether each transaction involved harvested marijuana, live plants, marijuana infused products or seeds;

(2) an inventory of all marijuana and marijuana infused products presently on the licensed premises;

(3) sales and use taxes collected and paid;

(4) The name, address and a copy of the medical marijuana license of any other medical

marijuana facility licensee with whom the licensee has transacted any business, including but not limited to any purchase, sale, or exchange of marijuana plants, harvested marijuana, or medical marijuana infused products; and

(5) The State of Colorado Medical Marijuana Card Number of any homebound patient and the waiver from the State of Colorado authorizing the primary caregiver to purchase medical marijuana for the homebound medical marijuana patient and transport the same to the homebound medical marijuana patient presented by a primary caregiver who purchases marijuana or marijuana infused products on behalf of a homebound patient.

(b) The licensee shall separate any record showing the patient's debilitating medical condition from all other records, maintain such records separately from all other records, and mark the cover to such records: "Confidential Patient Medical Information." (Ord. 1348, 2011)

Sec. 6-5-320. Inspection of books and records; audits.

(a) Any law enforcement officer may, without a warrant and without reasonable suspicion, inspect the books and records described in Section 6-5-319(a) Telluride Municipal Code, as amended, at any time that anyone is present inside the licensed premises, but shall not inspect the records described in Section 6-5-319(b), Telluride Municipal Code, as amended, unless a warrant specifically authorizing inspection of such records is issued or there are legal grounds that would excuse the requirement of a warrant.

(b) Upon five (5) days written notice, the licensee shall provide the books and records of the licensee for inspection and auditing by the Town, but shall not be required to provide the records described in Section 6-5-319(b), Telluride Municipal Code, as amended.

(c) In the event that the information described in Section 6-5-319 (b) Telluride Municipal Code, as amended, is interspersed in the same record or contained on the same sheet of paper or electronic record, the licensee shall copy the records, redact the information described in Section 6-5-319(b), and provide a redacted copy to the Town or law enforcement officers. (Ord. 1348, 2011)

Sec. 6-5-321. Inspection of licensed premises and adjacent grounds.

(a) Every licensed premises and adjacent grounds shall be open to inspection by police officers, building officials, firefighters, zoning officials, sales, use and excise tax officials, and health department officials at any time that anyone is present in the licensed premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation or criminal offense has occurred.

(b) The licensee, principals, registered managers, and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, vehicles, furniture, safes, lockers, or containers on the licensed premises and adjacent grounds, except as provided in this Section.

(c) Licensees, principals, registered managers, and employees on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy with regard to their persons, the personal effects in their immediate possession, and their own motor vehicles on the licensed premises and adjacent grounds, to the extent provided by other legal authority, but shall have no reasonable expectation of privacy as to other areas, vehicles, safes, lockers, containers, or objects on the licensed premises or adjacent grounds.

(d) Patients, primary caregivers, and other persons on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy as to their medical condition, their persons, the personal effects in their immediate possession, and their motor vehicles on the licensed premises and adjacent grounds, to the extent provided by other legal authority, but shall have no reasonable expectation of privacy as to other areas, vehicles, containers, or objects on the licensed premises and adjacent grounds.

(e) Police officers and other officials shall not inspect records described in Section 6-5-319(b), Telluride Municipal Code, as amended, or any person, place, or area in which a person retains a reasonable expectation of privacy, unless a search warrant is obtained for the same or there

are legal grounds that would excuse the requirement of a warrant. (Ord. 1348, 2011)

Sec. 6-5-322. Requests for information.

(a) The Authority and any Town employee enforcing any Town ordinance, State law or regulation may submit a written request for information relevant to such enforcement to the licensee by certified mail, return receipt requested at the address of the licensed premises.

(b) The licensee shall provide complete written answers to such questions, signed by the registered manager, within twenty (20) days of the date that the request was mailed or hand delivered to the licensee or registered manager, but shall not be required to disclose the information described in Section 6-5-319(b), Telluride Municipal Code, as amended.

(c) The licensee, principals, registered manager, and employees shall have no expectation of privacy in any information or document pertaining to the operation of the licensed business, licensed premises, and adjacent grounds as to the State or Town, but the Town shall not release the information and records as public records.

(d) In the event that the licensee refuses to provide answers on the grounds that the answer may tend to incriminate him or her for some criminal offense, or on advice of legal counsel, the Town and Authority may properly draw the inference and conclusion that the answer to the question would have been adverse to the licensee's position regarding the investigation, or other matter then pending and may institute a complaint and proceedings for sanctions based on such conclusion.

(e) The licensee may not refuse to answer a question submitted to it on the grounds that:

(1) the answer may incriminate its principals, creditors, registered manager, or employees;

(2) the answer might place his or her license in jeopardy; or

(3) the question is not relevant.

(f) If the licensee is a natural person, the licensee may seek an injunction against the request for information on the ground that the information is highly personal, does not involve the finances or operation of the licensed premises, nor self incrimination, and is protected by the licensee's own constitutional right to privacy, but shall also be required to satisfy all the requirements under Colorado law for issuance of a temporary restraining order, preliminary injunction, or permanent injunction. Failure of the licensee to seek an injunction against the request for information within twenty (20) days from the date the request for information is mailed to the licensee shall constitute a waiver of any right of privacy regarding the requested information. (Ord. 1348, 2011)

Section IV
Disciplinary Actions Against Licenses

Sec. 6-5-401. General.

(a) Administrative actions to impose sanctions against a licensee may be initiated only by complaint filed by the Town or by the Authority on its own motion.

(b) The Authority shall review the complaint *ex parte* and determine whether the complaint and any documents or exhibits submitted therewith show probable cause to believe that grounds for sanctions exist. If the Authority finds that the complaint along with any documents or exhibits submitted therewith do not show probable cause to believe that a violation of this Article, State law, or State regulations has occurred, the Authority shall dismiss the complaint without prejudice to refile the complaint with additional information showing probable cause. If the Authority finds that the complaint along with the documents or exhibits submitted therewith show probable cause to believe that a violation of this Article, State law, or State regulations has occurred, the Authority shall issue an Order to Show Cause to the licensee requiring the licensee to appear before the Authority on a specific date and at a specific time to answer the complaint.

(c) Sanctions may be imposed in a hearing for sanctions, renewal, denial, or for approval of major changes, but the Town or Authority shall place the licensee on notice that sanctions may be sought and the grounds for the same by filing a

complaint and obtaining an Order to Show Cause from the Authority.

(d) The Authority may impose sanctions against a licensee based on any of the grounds stated in Section 6-5-309, Telluride Municipal Code, as amended.

(e) In the event that a license expires while proceedings for sanctions are pending, the license may be temporarily extended until the Authority's final decision. The licensee shall pay a license extension fee for each thirty (30) day period or portion thereof that the license is temporarily extended. If the fee is not paid, the license shall expire. After the Authority renders its final decision, the licensee shall submit an application for renewal within fifteen (15) days of the Authority's final decision.

(f) A licensee shall have no right to surrender its license while an investigation, complaint, or proceeding for sanctions is pending, but the Authority may permit the same if the Town consents to the surrender.

(g) No complaint or action for the sanctions provided in this Article shall be instituted or based upon any conduct or omission by a licensee, principal, registered manager or employee that occurred more than three years before the complaint for sanctions was filed, but such conduct or omissions may be admitted in evidence if relevant to other violations that have occurred within the three year limitation period. (Ord. 1348, 2011)

Sec. 6-5-402. Sanctions.

(a) The Authority may impose any one or more of the following sanctions against a license or the licensee, in whatever combination the Authority finds appropriate, except that no other sanction may be used in addition to revocation:

(1) additional conditions as described in Section 6-5-312, Telluride Municipal Code, as amended;

(2) a fine in an amount to be determined by the Authority;

(3) suspension for up to one hundred and eighty (180) days;

(4) a fine in lieu of suspension, as provided in Section 12-43.3-601(3) C.R.S.;

(5) the reasonable costs of investigating, prosecuting, and hearing the violation, including the direct and indirect costs of the Town attorney, police officers, witnesses, subpoenas, clerk to the Authority, hearing officer, and other Town employees utilized in any proceedings for sanctions; and

(6) revocation.

(b) The Authority may suspend any sanction or portion of sanction on any reasonable condition that the Authority deems appropriate in its discretion. (Ord. 1348, 2011)

Sec. 6-5-403. Factors to consider in determining sanctions.

(a) In determining the appropriate sanction, and whether any sanction or portion of a sanction should be suspended, the Authority shall consider the following factors:

(1) the severity of the violation;

(2) whether the violation was committed deliberately, willfully, intentionally, knowingly, recklessly, wantonly, negligently, or accidentally;

(3) whether the licensee profited or gained some competitive advantage from the violation or attempted to do so;

(4) potential and actual harm to patients, primary caregivers, residents, businesses, and the reputation of the medical marijuana industry;

(5) harm to public health, safety, and welfare;

(6) warnings, whether written or verbal, given to the licensee, principals, registered manager or employees by the Authority or any State or Town employee before the violation occurred;

(7) the deterrent effect of the sanction on the licensee and other licensees;

(8) whether the violation was committed or permitted by a principal, registered manager, or employee;

(9) previous violations by the licensee, principals, manager or employees of the same or different nature and at the same or different licensed premises, including contempt;

(10) previous sanctions imposed on the licensee, including sanctions for contempt;

(11) steps taken by the licensee before the violation occurred to prevent the violation from occurring;

(12) whether the violation occurred on the licensee's licensed premises or its adjacent grounds, or the licensed premises or adjacent grounds of another licensee;

(13) any plans that the licensee may present showing how it intends to remedy the problem and prevent the same and similar violations in the future; and

(14) any other aggravating or mitigating factors, except those that the Authority may not legally consider.

(b) In determining the appropriate sanction, the Authority shall not consider the following factors:

(1) gender, race, ethnicity, ancestry, religion, or sexual orientation;

(2) the licensee's business income at the licensed premises, except as provided in C.R.S. §12-43.3-601(3) C.R.S. for fines in lieu of suspension;

(3) the probable effect of the sanction on the licensee's finances;

(4) any criminal sanction imposed on any person as a result of the same or related conduct;

(5) any administrative penalty imposed by the State as a result of the same or related conduct;

(6) any civil judgment imposed as a result of the same or related conduct;

(c) The administrative sanctions provided in this Section are intended to be in addition to any administrative, civil or criminal penalty, or judgment imposed by any court or licensing authority. (Ord. 1348, 2011)

Sec. 6-5-404. Summary suspension.

(a) The Authority may summarily suspend any license without notice or hearing if the Authority finds, *ex parte*, that there is probable cause to believe that:

(1) the licensee or its principals, registered manager, or employees have committed a willful or deliberate violation of this Article or State law or State regulations; and

(2) the continued operation of the medical marijuana license poses an immediate and substantial threat to public health, safety, and welfare, such that waiting the time required to hold a regular disciplinary hearing would probably result in substantial harm to public health, safety and welfare.

(b) If the Authority imposes a summary suspension *ex parte*, it shall notify the licensee in writing as soon as is practical that it has been summarily suspended, that it must close its licensed premises, and the date, time, and place of the three-day hearing to follow.

(c) The Authority shall hold a hearing within three (3) business days, at which the licensee may be present, to determine whether the summary suspension should continue pending a full hearing on the alleged violation.

(d) The Authority shall set a full hearing on the sanctions to be imposed for the violation that led to summary suspension to be held within fifteen (15) days from the date the licensee was first informed of the summary suspension and required to close the licensed premises, unless the Authority finds at the three-day hearing or upon the Town's motion, that there no longer is probable cause to believe that a violation occurred.

(e) The licensee may waive the fifteen (15) day hearing requirement and request a later hearing, but such waiver shall operate as consent to continue the summary suspension until the later date. (Ord. 1348, 2011)

Sec. 6-5-405. Imputing knowledge and violations to the licensee.

(a) Any fact that a licensee's principal, registered manager, or employee knows or once had knowledge of, or in the exercise of reasonable diligence should know, or should have once

known, shall be imputed to the licensee for purposes finding whether a violation occurred and imposing sanctions.

(b) Any fact that occurs in the licensed premises or adjacent grounds that a reasonable person observing the area would be aware of shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.

(c) Any violation of law committed by a licensee's principal, registered manager, or employee, or which any of the same permit on the licensed premises or adjacent grounds, shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions. (Ord. 1348, 2011)

Sec. 6-5-406. Effect of sanctions.

(a) New Conditions. A licensee who has new conditions imposed on the license as a sanction shall bring the licensed premises into compliance with the new condition within such period as the Authority may specify in its order. Failure to do may be grounds for further sanctions.

(b) Fine, Fine in Lieu of Suspension and Costs. A licensee who has a fine, a fine in lieu of suspension, or costs imposed on the license shall:

(1) Pay the fine and costs imposed within the time specified in the Authority's order. In the event that the fine is not paid within the time specified in the Authority's order, the Authority may impose any suspended license suspension or impose alternative or additional sanctions for failure to pay the fine or costs in a timely manner.

(2) Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height for a period of ten (10) continuous days which shall be specified in the Authority's order, stating:

> THE MEDICAL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN FINED AND ADJUDGED COSTS BY THE TELLURIDE MEDICAL MARIJUANA LICENSING AUTHORITY IN THE AMOUNT OF $____FOR VIOLATING THE FOLLOWING PROVISIONS OF THE TELLURIDE MUNICIPAL CODE RELATING TO MEDICAL MARIJUANA: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

(c) Suspension of License. A licensee whose license has been suspended shall:

(1) Close the licensed premises to all persons except the registered manager and employees during the term of the suspension.

(2) Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height during the period that the suspension is imposed, stating:

> THE MEDICAL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN SUSPENDED BY ORDER OF THE TELLURIDE MEDICAL MARIJUANA LICENSING AUTHORITY FOR DAYS FROM _____ THROUGH _____FOR VIOLATING THE FOLLOWING PROVISIONS OF THE TELLURIDE MUNICIPAL CODE RELATING TO MEDICAL MARIJUANA: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

(d) Revocation of License. A licensee whose license is revoked shall:

(1) Close the licensed premises and dispose of all medical marijuana on the licensed premises through legal means within such time and by such means as the Authority may order.

(2) Not be eligible to apply for a new license for a period of two (2) years. (Ord. 1348, 2011)

Section V License Hearings

Sec. 6-5-501. Notice of hearings; setting of hearings.

(a) Notice for hearings on applications for new licenses, denial of a new license, renewals of licenses, and approval of major changes shall be given to the public in the manner prescribed by State law by posting the proposed premises and publishing a notice in a newspaper of general circulation at least fifteen (15) days before the

hearing, stating the name of the applicant, the address of the proposed licensed premises, and the type of license applied for; and

(b) All notices shall State the date, time and place of the hearing, the name of the applicant or licensee, the address of the proposed or licensed premises, the date time and place of the hearing, and the issue before the Authority.

(c) Notwithstanding any other provision regarding public notice, posting of notice on premises, publication of notice, agendas of the Authority, notices of hearing, or any other document made available to the public, contained in this Article or any other provision of the Telluride Municipal Code, which pertains or may be applied to any application for an optional premises cultivation license or a licensed optional premises cultivation operation:

(1) no public notice or publication of notice of any hearing shall be given concerning such a license or an application for the same;

(2) no notice of a hearing shall be posted at the proposed or licensed premises or adjacent grounds;

(3) no agenda, notice or other document available to or released to the public shall contain the address of the proposed or licensed premises;

(4) the address of the proposed or licensed premises shall not be disclosed by the Authority or Town staff in any hearing or statement concerning such application or license; and

(5) The address of the licensed premises or proposed licensed premises shall not be a matter of public record and shall not be released to the public.

(d) The applicant shall have the responsibility to set the matter with the Clerk of the Authority for a hearing, publish notices, provide a publisher's affidavit of publication, post the premises with notice as required by this Article and State law, and provide an affidavit of posting.

(e) Failure of an applicant to properly publish notice of the hearing, post the premises with notice of the hearing as provided in this Article, and provide proper affidavits of the same shall deprive the Authority of jurisdiction to hold a hearing on the application.

(f) Applicants for a new license seeking a hearing under Section 6-5-311 of this Article shall have the sole responsibility to:

(1) Conduct the setting of the hearing with the Clerk of the Authority within the time limits prescribed in Section 6-5-310(c)(d);

(2) Select a date for the hearing that is not less than thirty (30) and no more than ninety (90) days from the day of the setting;

(3) Publish and post the proposed premises with notice as required in this Article.

(g) Failure of an applicant to successfully bring an application for a new license or any major change to a hearing in compliance with every requirement of this Section shall constitute withdrawal of the application. Withdrawal of an application under this Section shall not constitute a denial of the application under Section 6-5-308(d)(5) and shall not prevent the applicant from re-submitting its application upon payment of a new application fee. (Ord. 1348, 2011)

Sec. 6-5-502. Hearing procedures.

(a) Hearings shall be conducted in accordance with the procedures outlined in this Article. Where this Article does not address a procedural issue, the procedures in Article 43.3, Title 12, Colorado Revised Statutes, and any procedural rules enacted pursuant to that article shall apply unless the same are clearly inconsistent with the provisions of this Article.

(b) Failure of an applicant or licensee to appear at any scheduled hearing of which the applicant or licensee has received notice or has himself set, and for which notice was posted and published in compliance with this Article, without a showing of good cause verified by the applicant's affidavit filed with the authority within ten (10) days of the scheduled hearing, shall constitute a default and a withdrawal of the application or motion, and a default of any complaint, Order to Show Cause, motion or other matter pending against the licensee. Any such application or motion withdrawn by the applicant or licensee may not be re-filed for one year.

(c) After an application has been filed, a hearing on the application has been set, and notice has been published and posted in compliance with this Article, any withdrawal of the application by the applicant shall constitute a denial of the license under Section 6-5-308(d)(5) and C.R.S. §12-43.3-308, unless the Town stipulates that the withdrawal shall not constitute such a denial.

(d) The Authority may hear and decide motions.

(e) The Authority may adjourn and continue any hearing, at the request of the applicant and with the consent of the Town, to give the applicant an opportunity to fulfill any requirement that has not been met or to make changes to its application or operational plan.

(f) The Authority may join various matters pending concerning the same license in a single hearing.

(g) Every decision of the Authority shall be in writing, stating the reasons therefore and shall be made within thirty (30) days after the date of the that a complete application is submitted or within thirty (30) days of the public hearing if a public hearing is required or held. A copy of such decision shall be sent by certified mail to the applicant at the address shown in the application. (Ord. 1348, 2011)

Sec. 6-5-503. Discovery and subpoenas.

(a) Any complaint or motion for sanctions shall contain a summary of the legal and factual grounds for the same.

(b) Every party who has standing to be heard at a hearing shall provide a list of witnesses and exhibits to every other party who has standing, along with copies of the exhibits, at least ten (10) days before the hearing.

(c) Each party shall provide the other parties who have standing with copies of any statements or reports relevant to the matter.

(d) Any party may provide copies to another party by filing a copy in the Authority's file, which any party may access and copy upon reasonable notice and upon payment of reasonable copying charges.

(e) No party shall be entitled to any additional discovery and the Authority shall not order any further discovery.

(f) Subpoenas for the attendance of witnesses with or without documents and other tangible things shall be issued as provided in the Telluride Municipal Code. (Ord. 1348, 2011)

Sec. 6-5-504. Burden of proof.

(a) In any proceeding under this Article to obtain approval or issuance of a license, renewal of a license, concerning denial of a new license, or to obtain approval for any new principal, manager, employee, or any major change, the applicant or licensee shall have the burden to prove by a preponderance of the evidence: (1) his or her right to such license; and (2) that there is no good cause for denial of the license or approval.

(b) In any proceeding under this Article in which any person seeks to impose a condition on a license, the person seeking to impose the condition shall have the burden to prove by a preponderance of the evidence that the condition is necessary to protect public health, safety or welfare. Notwithstanding the foregoing, the Authority may, on its own motion, in any hearing for a new license, transfer of a license to a new location, or transfer of a license to a new licensee, impose a condition on a license where it finds by a preponderance of the evidence that such condition is necessary to protect public health, safety, or welfare.

(c) In any proceeding under this Article to impose any sanction against a license, the Town shall have the burden to prove every allegation necessary to impose a sanction by a preponderance of the evidence.

Sec. 6-5-505. Evidence.

(a) The Colorado Rules of Evidence and the common law rules of evidence shall not apply. The Authority may accept into evidence any testimony or exhibit and give such evidence the weight that the Authority believes it deserves.

(b) The Authority may accept hearsay and multiple-hearsay testimony and may base its decision solely on such hearsay if such hearsay is reasonably reliable and trustworthy and has probative value accepted by reasonable and

prudent persons in the conduct of their affairs. The Authority shall not be required to make a finding that the hearsay meets this standard. If the Authority admits the hearsay it shall be conclusively presumed that the hearsay met this standard unless the Authority makes findings to the contrary.

(c) The Authority shall have the authority to exclude testimony and other evidence as irrelevant, cumulative, or on the ground that the witness does not have standing and was not called as a witness by a party who does have standing.

(d) The Authority may take administrative notice of any matter contained in its file.

(e) If Town Council has appointed a Board to act as the Authority, the Board may delegate to the chair or another member of the Board the authority to make procedural and evidentiary rulings at any hearing, but every member of the Board present shall vote on the findings and conclusions at the close of the hearing. (Ord. 1348, 2011)

Sec. 6-5-506. Standing.

(a) At any hearing for issuance of a new license, for denial of a new license, for renewal, or for any major change in the premises, only the following parties shall have standing to be heard:

(1) the applicant or licensee;

(2) any person who resides within a 1000' radius of the adjacent grounds of the proposed or licensed premises;

(3) any person who owns any real property within a 1000' radius of the adjacent grounds of the proposed licensed premises;

(4) any person who owns or is employed by any business within a 1000' radius of the adjacent grounds of the proposed licensed premises; and

(5) The Town of Telluride.

(b) At all other hearings, only the applicant or licensee and the Town of Telluride shall have standing. (Ord. 1348, 2011)

Section VI
Reserved

Section VII Violations and Penalties

Sec. 6-5-701. Unlawful acts--any person.

It shall be unlawful for any person to:

(a) forge, duplicate, alter, attempt to sell or convey, whether for consideration or not, any medical marijuana card;

(b) possess, exhibit, or use any medical marijuana card issued to another person, except that a primary caregiver who has received a waiver from the State authorizing him or her to purchase and transport medical marijuana to a homebound patient may possess and use the medical marijuana card of the homebound patient while purchasing and transporting medical marijuana to the homebound patient;

(c) make any false statement, written or verbal, to the Authority or to any Town employee, in any investigation, inquiry, hearing, testimony, application, report, or document related in any way to medical marijuana or the licensing thereof;

(d) unseal on any licensed premises any marijuana infused product; or

(e) purchase, sell, exchange, or deliver, whether for consideration or not, any medical marijuana, marijuana plant, or marijuana infused product in public, except in a licensed premises. (Ord. 1348, 2011)

Sec. 6-5-702. Unlawful acts--patients and primary caregivers.

It shall be unlawful for any patient or primary caregiver to:

(a) give, lend, or sell a medical marijuana card or identification to any other person, except that a homebound patient who has received a waiver from the State permitting his or her primary caregiver to transport medical marijuana to him or her may lend his or her medical marijuana card and identification to his or her primary caregiver for the purpose of purchasing and transporting medical marijuana to the homebound patient;

(b) fail to have in his or her possession a medical marijuana card at any time the patient or primary caregiver is purchasing, exchanging, receiving, transporting, or in possession of any medical marijuana, marijuana plants or marijuana infused product;

(c) purchase and transport marijuana from a medical marijuana facility to a homebound patient without having in his or her possession the primary caregiver's own medical marijuana card, the medical marijuana card of the homebound patient, and a copy of the State waiver permitting the primary caregiver to purchase medical marijuana from a medical marijuana center and transport the medical marijuana to the homebound patient; or

(d) smoke, eat, drink, or otherwise use or consume any medical marijuana or marijuana infused products on any licensed premises or anywhere in public. (Ord. 1348, 2011)

Sec. 6-5-703. Unlawful acts---licensees, principals, registered managers, and employees.

It shall be unlawful for any licensee, principal, registered manager, or employee of a licensee to commit any of the following acts:

(a) To violate or to fail, neglect or refuse to comply with any requirement of this Article of the Telluride Municipal Code, Article 43.3, Title 12, Colorado Revised Statutes, or any State regulation pertaining to medical marijuana.

(b) To permit any violation of this Article or any law or regulation on the licensed premises or the adjacent grounds.

(c) To operate a medical marijuana center at any time that any of the requirements or conditions contained in Sections 6-5-301 and 6-5-308 Telluride Municipal Code, as amended, are not satisfied.

(d) To sell, dispense or give away any medical marijuana, marijuana plants, or medical marijuana infused product to any person except:

(1) another medical marijuana licensee, to the extent and in the manner permitted by law;

(2) a medical marijuana patient who presents at the time and place of each sale or gift, his or her own valid medical marijuana card along with his or her own government-issued photographic identification which matches the name shown on the medical marijuana card; or

(3) a primary caregiver purchasing or receiving medical marijuana or medical marijuana infused products on behalf of a homebound patient who presents at the time and place of each sale or gift: (a) his or her own medical marijuana card along with his or her own government-issued photographic identification, which matches the name shown on the medical marijuana card; (b) the waiver from the State of Colorado authorizing the primary caregiver to purchase medical marijuana for the homebound medical marijuana patient and transport the same to the homebound patient; and (c) the homebound patient's medical marijuana card along with the homebound patient's government-issued photographic identification, which matches the name shown on the medical marijuana card.

(e) To fail, neglect or refuse to collect sales taxes on any transaction or to promptly pay any tax, fee or charge required under this Article or other Chapters of the Telluride Municipal Code.

(f) To fail, neglect or refuse to promptly provide any books, records, reports, information, documents, or answers to requests for information required under this Article.

(g) To refuse to provide signed answers to requests for information, except as provided in this Article, or to refuse to answer any request for information on any ground prohibited under this Article.

(h) To violate any ordinance, statute, or regulation on the licensed premises or on the adjacent grounds.

(i) To violate any condition or to permit the violation of any condition placed on a license issued under this Article.

(j) To permit anyone under the age of twenty-one (21) to be present on the licensed premises, except a patient under the age of twenty-one (21) who has a valid medical marijuana card.

(k) To permit anyone who is not an employee to enter the limited access area.

(l) To permit any employee to enter the limited access area without a visible employee badge.

(m) To conduct any cultivation, processing, packaging, display, sale, or exchange of marijuana plants, harvested medical marijuana, or medical marijuana infused products outside the licensed premises.

(n) To possess on the licensed premises of a medical marijuana center more than (6) medical marijuana plants or more than two (2) ounces of harvested medical marijuana for each patient who has registered the medical marijuana center as his or her primary center, except that the medical marijuana center may exceed these limits if a patient who has registered the medical marijuana center as his or her primary center has received a written recommendation from a physician licensed to practice in Colorado stating that the patient needs more medical marijuana to address his debilitating condition than these limits allow and the medical marijuana center has a copy of such physician statement in its books and records on the licensed premises.

(o) To fail, neglect or refuse to package and label any medical marijuana plant, harvested marijuana, sold or exchanged on the licensed premises with the following statements in clear and legible type in at least a 12-point font:

THIS PRODUCT CONTAINS MEDICAL MARIJUANA.
THIS PRODUCT IS CULTIVATED, MANUFACTURED AND PROCESSED WITHOUT ANY GOVERNMENTAL OVERSIGHT AS TO ITS HEALTH, SAFETY OR EFFICACY.
THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OF THIS PRODUCT.
THE CHEMICALS, ADDITIVES, PESTICIDES, HERBICIDES, AND FERTILIZERS, ARTIFICIAL AND NATURAL, USED IN THE CULTIVATION, PROCESSING, PRODUCTION, AND STORAGE OF THE PRODUCT ARE AS FOLLOWS: (STATE EACH HERE).

(p) Violation of Patient Confidentiality.

(1) It shall be unlawful to intentionally, knowingly, recklessly, or negligently disclose any of the following information, in any form, concerning any medical marijuana patient, or to conduct any discussion, assessment, or evaluation of the patient or the patient's records where any person may overhear or observe any of the following information:

(a) the fact that the patient possesses, cultivates, or uses medical marijuana or medical marijuana infused products or utilizes the services of a medical marijuana center;

(b) the patient's diagnosis, prognosis, or other information concerning the patient's physical, emotional, or psychological condition;

(c) the fact that the patient has a medical marijuana recommendation or the contents of the medical marijuana recommendation;

(d) the form, type, quantity, and frequency in which the patient purchases and uses medical marijuana or medical marijuana infused products; and

(e) the efficacy of the medical marijuana or medical marijuana infused products in treating the patient's condition.

(2) It shall not be a violation of this section to disclose such information to:

(a) employees of the medical marijuana center with whom the patient has registered as a patient;

(b) the physician who wrote the medical marijuana recommendation;

(c) a law enforcement officer conducting an investigation concerning the violation of any law;

(d) an employee of the state department of revenue, medical marijuana enforcement division or an employee of the town conducting an investigation of violations of C.R.S. §12-43.1-101 *et. seq.* or this Article;

(e) any person to whom the patient has signed a release directing the release of the information; or

(f) a court or an attorney conducting a deposition when compelled to testify or produce documents pursuant to a subpoena or other court order.

(q) To sell, give away or provide to any patient, or to any primary caregiver obtaining harvested medical marijuana or medical marijuana infused products on behalf of a homebound patient, more than the following quantities of harvested medical marijuana or medical marijuana infused products, or any combination thereof, within any 24 hour period:

(1) two ounces of medical marijuana, whether in the form of harvested medical marijuana, marijuana contained within a marijuana infused product, or both; or

(2) the quantity of harvested medical marijuana, marijuana contained within a marijuana infused product, or any combination thereof, in excess of two ounces specifically recommended in the physician's recommendation for medical marijuana obtained from a physician licensed to practice medicine in Colorado, when the person providing the same views and retains a copy of the physician recommendation for marijuana.

(r) To sell, give away, or provide to any patient, or to any primary caregiver obtaining medical marijuana on behalf of a homebound patient, more than the following quantities of live medical marijuana plants within any 30 day period:

(1) six plants; or

(2) the quantity of live marijuana plants in excess of six plants specifically recommended in the physician's recommendation for medical marijuana obtained from a physician licensed to practice medicine in Colorado when the person providing the same views and retains a copy of the physician recommendation for marijuana.

(s) To transport any quantity of medical marijuana without carrying with the medical marijuana a written manifest showing the following information, or to refuse to provide to any law enforcement officer upon demand a written manifest showing the following information:

(1) the weight and volume of marijuana carried;

(2) a description of the make, model, and VIN number of the vehicle carrying the medical marijuana;

(3) the name and address of the driver of the vehicle;

(4) the name and address of the licensed medical marijuana facility from which the medical marijuana originated;

(5) the name and address of the licensed medical marijuana facility to which the medical marijuana is being delivered;

(6) the date and time that the marijuana departed the licensed medical marijuana facility where the marijuana originated; and

(7) the intended route from source to the destination.

(Ord. 1348, 2011)

Sec. 6-5-704. Penalties.

Any person who violates any provision of this Article or fails, neglects or refuses to perform any act required under this Article, shall upon conviction, be punished by a fine of not more than one thousand dollars ($1,000.00) or imprisonment for not more than ninety (90) days, or both such fine and imprisonment. (Ord. 1348, 2011)

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ARTICLE 6

Retail Marijuana Stores

Section 1 General

Sec. 6-6-101. Findings and Purpose.

Town Council of the Town of Telluride will Permit and regulate Retail Marijuana Stores within the Town. The Town Council finds that the cultivation, possession, sale and use of Retail Marijuana may be harmful to public health, safety and welfare if not carefully regulated. This Article is designed to protect Public Health, Safety and Welfare from the potential adverse effects of Retail Marijuana.

It is the intent of this Article and this Retail Marijuana licensing scheme to implement a local licensing Authority and rules for licensing Retail Marijuana Stores, pursuant to Colorado Retail Marijuana Code.

It is not the intent of this Article of the Telluride Municipal Code and this Retail Marijuana licensing scheme to alter or amend the zoning restrictions specified in the Land Use Code ("LUC") Section 3-910. Rather, this licensing scheme and Article of the Telluride Municipal Code are designed to implement a local licensing Authority and distinct rules for licensing Retail Marijuana Stores, pursuant to the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, *et. seq.*, that is separate and distinct from the zoning aspects of LUC Article 3, Division 9, and the provisions of this Article of the Telluride Municipal Code, it is the intent of the Town Council to have the provisions of the Telluride Municipal Code govern and control should a direct conflict exist.

The Town Council may impose local licensing requirements, separate from those of the State, as part of its restrictions on time, place, manner, and number of Retail Marijuana businesses pursuant to C.R.S. § 12-43.4-301(2). (Ord. 1394, 2013)

Sec. 6-6-102 Incorporation of General Licensing Provisions.

The provisions of the Telluride Municipal Code shall apply to this Article except where they may be inconsistent with the provisions of this Article. (Ord. 1394, 2013)

Sec. 6-6-103 Definitions.

The following definitions shall apply throughout this Article:

(a) The definitions contained in Section 16, Article XVIII, Colorado Constitution and C.R.S. § 12-43.4-101, *et. seq.*, shall apply to this Article except where the ordinance provides a different definition or the context of this Article makes it clear that the statutory or constitutional definition does not apply.

(b) "Adjacent Grounds" means all areas that the Licensee has an exclusive right to possess by virtue of his ownership or lease, which are outside the enclosed Licensed Premises, but adjacent and contiguous to the Licensed Premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots, and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers, and security devices.

(c) **"Alarm System"** means a device or series of security devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in process).

(d) "**Applicant"** means a Person that has submitted an application pursuant to these rules that was accepted by the Authority but has not been approved or denied by the Authority.

(e) **"Authority" or "Local Licensing Authority"** means the Retail Marijuana Licensing Authority, which may be either an individual hearing officer or a Board.

(f) "Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Retail

Marijuana Cultivation Facility to a specific Batch of Retail Marijuana.

(g) "**Batch**" means a specifically identified quantity of processed Retail Marijuana that is uniform in strain and potency, cultivated utilizing the same herbicides, pesticides, and fungicides, and harvested during the same cultivation cycle.

(h) "**Cannabinoid**" means any of the chemical compounds that are the active principles of marijuana..

(i) "**CBD**" means cannabidiol.

(j) "**CBDA**" means cannabidiol-acid.

(k) "**CBG**" means cannabigerol.

(l) "**CBN**" means cannabinol.

(m) **Character and Record"** includes all aspects of a Person's Character and Record, including but not limited to moral character, criminal record serious traffic offenses, record of previous sanctions against liquor licenses, gambling licenses, medical or Retail Marijuana licenses, which the Person owned, in whole or in part, or in which the Person served as a principal, manager, or Employee; education, training, experience, civil judgments, truthfulness, honesty, and financial responsibility.

(n) **"Colorado Retail Marijuana Code"** means § 12-43.4-101, *et. seq*., Colorado Revised Statutes.

(o) **"Colorado Retail Marijuana Code Rules"or "Rules"** means rules related to the Colorado Retail Marijuana Code promulgated by Colorado Department of Revenue Marijuana Enforcement Division codified in the Colorado Code of Regulations at 1 CCR 212-2.

(p) **"Consumer"** means a Person twenty-one (21) years of age or older who purchases marijuana or marijuana products for personal use, but not for resale to others.

(q) **"Container"** means the sealed package in which Retail Marijuana or a Retail Marijuana Product is placed for sale to a patient and that has been labeled according to the requirements pursuant to § 12.43.4-202 C.R.S. and set forth in the Rules.

(r) **"Cultivation Operations"** means the premises or portion of a premises that is accessory to and operated by a Licensed Retail Marijuana Store or Licensed Medical Marijuana establishment.

(s) **"Denied Applicant"** means any Person whose application for licensure pursuant to the Retail Code has been denied.

(t) **"Division"** means the Marijuana Enforcement Division.

(u) **"Employee"** means the Licensee's or proposed Licensee's Employees.

(v) **"Good Cause"** for purposes of denial or discipline of a License or permit means:

i. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Retail Code, any rules promulgated pursuant to the Retail Code, or any supplemental relevant state or local law, rule, or regulation;

ii. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the License pursuant to an order of the State and/or Local Licensing Authority;

iii. The Licensee's Licensed Premises or Adjacent Grounds have been operated in a manner that adversely affects the public health, safety, or welfare of the public; or

iv. The Licensed Premises or Adjacent Grounds have been operated in a way that substantially deviates from the operational plan approved by the Authority.

(w) **"Label" or "Labeling"** means all Labels and other written, printed, or graphic matter upon a Container holding Retail Marijuana or a Retail Marijuana Product.

(x) **"License"** means to grant a License or registration pursuant to the Colorado Retail Marijuana Code and this Article. Issuance of a License gives the Licensee the ability to operate a Retail Marijuana Store, provided that the Licensee also obtains a State License.

(y) **"Licensed Premises"** means the Premises specified in an application for a License pursuant to the Retail Marijuana Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test Retail Marijuana in accordance with the provisions of the Retail Code and the Rules and this Article.

(z) **"Licensee"** means any Person licensed pursuant to the Colorado Retail Marijuana Code and this Article.

(aa) **"Limited Access Area"** means a building, room, or other contiguous area upon the

Licensed Premises where Retail Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee. All areas of ingress or egress to Limited Access Areas shall be clearly identified as such by a sign as designated herein.

(bb) **"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, derivative, mixture, or preparation of the plant, its seeds, or resin, including concentrate. "Marijuana" does not include industrial hemp, fiber produced from the stalks, 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.

(cc) **"Marijuana Products"** means concentrated Marijuana Products and Marijuana Products that are comprised of Marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(dd) **"Medical Marijuana"** means Marijuana that is grown and sold pursuant to the Medical Marijuana Code at § 12.43.3-101, *et. seq.*, C.R.S.

(ee) "**Medical Marijuana Business"** means a licensed Medical Marijuana Center, a Medical Marijuana-Infused Products Manufacturing Business, or an Optional Premises Cultivation Operation.

(ff) **"Notice of Denial"** means a written statement from the State or local Licensing Authority articulating the reasons or basis for denial of a License application.

(gg) **"Occupational Licensee"** means a Person who has an Occupational License issued by the Division.

(hh) **"Order to Show Cause"** means a document from the State or local Licensing Authority the grounds for imposing discipline against a Licensee's License.

(ii) **"Owner"** means the Person or Persons whose beneficial interest in the License is such that they bear risk of loss other than as an insurer, and have an opportunity to gain profit from the operation or sale of the establishment.

(jj) **"Permit"** when used as a verb means to:

(1) Participate in or contribute to an act, conduct, or omission;

(2) Consent to or condone an act, conduct or omission;

(3) Know or have reason to know that an act, conduct, or omission is or may be occurring, or probably will occur unless steps are taken to prevent the same, and failing to take reasonable steps to halt, thwart or prevent the same; or

(4) Ignore, avoid knowledge or notice of, or turn a blind eye to an act, conduct or omission that may be occurring.

(kk) **"Person"** means a natural Person, partnership, association, company, corporation, limited liability company, or organization; except that "Person" does not include any governmental organization.

(ll) **"Premise"** means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

(mm) **Principal"** means

(1) In the case of any entity, including any general or limited partnership, corporation, limited liability company, or other entity: any Person who has a five percent (5%) or greater interest in the ownership of the entity, and any Person who has the day-to-day authority to or actually does manage the entity's finances.

(2) In the case of a corporation: the Persons described for any entity in Subsection (mm)(1) and the president, vice-president, secretary, chief executive officer, chief financial officer, and any Person who holds five percent (5%) or more of the capital stock of the corporation.

(3) In the case of a limited liability company: the Persons described for any entity in Subsection (mm)(1) and any member of the limited liability company.

(4) In the case of a sole proprietorship, the individual Owner.

(nn) **"Public"** means any area that the public may generally enter, including any business open to the public. The term includes the Licensed Premises and the Adjacent Grounds. The term includes Persons in motor vehicles located in a Public place.

(oo) **"Registered Manager"** every Licensee shall designate one (1) Registered Manager and delegate to the Registered Manager authority over the day-to-day operations of the Licensee and the responsibility to ensure that the Licensed Premises and adjacent premises are operated in compliance with this Article.

(pp) **"Retail 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 that is cultivated, manufactured, distributed, or sold by a Licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from 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.

(qq) **"Retail Marijuana Cultivation Facility"** means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Product Manufacturing Facilities, and to other Retail Marijuana Cultivation Facilities, but not to Consumers, as described in § 12-43.4-403, C.R.S.

(rr) **"Retail Marijuana Establishment"** means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

(ss) **"Retail Marijuana Licensing Authority Hearing Officer "** means a person the appointed by Town Council Resolution and serve at the pleasure of the Town Council authority to handle the business of the Local Licensing Authority .**"**

(tt) **"Retail Marijuana Products Manufacturing Facility"** means an entity licensed to operate a business as described in § 12-43.4-404, C.R.S.

(uu) "**Retail Marijuana Product"** means concentrated Retail Marijuana Products and Retail Marijuana Products that are comprised of Retail Marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(vv) **"Retail Marijuana Store"** means an entity licensed pursuant to this Article to operate a business as described in § 12-43.4-402, C.R.S.

(ww) **"Retail Marijuana Testing Facility"** means an entity licensed pursuant to operate a business as described in § 12-43.4-405, C.R.S.

(xx) **"State Licensing Authority"** means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana and Retail Marijuana in Colorado, pursuant to § 12-43.3-201, C.R.S. In this State, the State Licensing Authority shall also have regulatory authority for Retail Marijuana as permitted in Section 16 of Article XVIII of the State Constitution and § 12- 43.4-201 C.R.S.

(yy) **"THC"** means tetrahydrocannabinol.

(zz) **"Withdrawal"** of an application does not constitute a denial of the application and shall not prevent the Applicant from re-submitting its application upon payment of a new application fee. (Ord. 1394, 2013)

Section II Licensing Authority

Sec. 6-6-104 Retail Marijuana Licensing Authority

(a) **Authority.** Pursuant to the authority granted by C.R.S. § 12-43.4-101 *et. seq.*, the Town Council hereby establishes a Retail Marijuana Licensing Authority, hereafter referred to in this Article as the "Authority" or "Local Licensing Authority" which shall be handled by the position of Hearing Officer, which officer shall be appointed by Town Council Resolution and who serves at the pleasure of the Town Council.

(b) **Functions/Powers of Authority.**

i. The Authority shall have the duty and authority pursuant to the Colorado Retail Marijuana Code and this Article to grant or refuse Licenses in the manner provided by law;

ii. The Authority shall possess all powers given to local licensing authorities by the

provisions of the Colorado Retail Marijuana Code and rules and regulations promulgated thereunder.

iii. The Authority shall have the power to require any Applicant or Licensee to furnish any relevant information required by the Authority;

iv. The Authority shall have the power to administer oaths and issue subpoenas to require the presence of Persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the District Court of the State;

v. The Authority may hear and decide motions;

vi. The Authority may join various matters pending concerning the same License in a single hearing;

vii. The Authority shall have the power to impose any condition related to the License, Licensed Premises, or Adjacent Grounds that is reasonably necessary to protect public health, safety, or welfare; and

viii. Every decision of the Authority shall be in writing, stating the reasons therefore and shall be made within thirty (30) days after the date that a complete application was submitted or within thirty (30) days of the public hearing if a public hearing is required or held. A copy of the decisions shall be sent by certified mail to the Applicant at the address shown in the application.

ix. The Authority shall have the power to perform any other act necessary to carry out any act that the Authority is authorized to perform under this Article.

(c) **Appeal of Authority Decisions.** All appeals from the Authority shall be directly to the Town Council. Any appeal from a decision or final action of the Authority must be taken by filing with the Town Clerk a written notice of appeal within fourteen (14) days of the date of the decision or final action appealed from. On appeal, the Town Council shall consider only the record as compiled before the Hearing Officer. The decision of the Hearing Officer shall be affirmed unless the Town Council determines that the officer acted arbitrarily and capriciously, abused his or her discretion, exceeded his or her jurisdiction, acted without proper evidence or a sufficient factual basis, or otherwise failed to act in accordance with the law. The burden of proof shall be on the appellant to establish grounds for reversal. Appeals from the Town Council shall be directly to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 1394, 2013)

Section III

Marijuana Enterprises

Sec. 6-6-105 Marijuana Enterprises prohibited.

It shall be unlawful to locate or operate any Marijuana Enterprise not otherwise subject to any Town application or Town-approved permit, including but not limited to: Cultivation Facilities (but not cultivation operations); to manufacture hash oil anywhere within the Town of Telluride; to operate a Retail Marijuana Products Manufacturing Facility producing Solvent-Based Retail Marijuana Concentrate, by use of solvents containing compressed flammable gases, which are regulated under Colorado Department of Revenue, Marijuana Enforcement Division, Retail Marijuana Code Rule 605 (1CCR212-2), and to operate Marijuana Private Clubs in any form or Marijuana Product vending machines in the Town of Telluride. (Ord. 1407, 2014; Ord. 1394, 2013)

Section IV

Marijuana on or in Town Owned or Leased Property

Sec. 6-6-106 Marijuana on or in Town Owned or Leased Property prohibited.

It shall be unlawful to consume, use, display or grow Marijuana on or in any Town Owned or Leased Property. (Ord. 1394, 2013)

Section V

Operation of Retail Marijuana Stores, Marijuana Testing Facilities and Marijuana Product Manufacturing Facilities.

Section 6-6-107 Generally.

For the regulation of Retail Marijuana Stores, Marijuana Testing Facilities and Marijuana Product Manufacturing Facilities:

(a) Complete Applications Required

i. *General Requirements*

a. All applications for local Licenses authorized pursuant to § 12-43.4-401, C.R.S.,

shall be made upon forms prescribed by the Authority.

b. Applicants must submit a complete application to the Authority before it will be accepted or considered.

I. All applications must be complete in every material detail.

II. All applications must include all attachments or supplemental information required by the forms supplied by the Authority.

III. All applications must be accompanied by a full remittance for the whole amount of the application, License, or other relevant fees.

c. The Authority may refuse to accept an incomplete application.

d. Every License shall be valid for one (1) year from the date it is issued unless the License is earlier revoked.

ii. *Additional Information May Be Required*

a. Each Applicant shall provide any additional information required that the Authority may request to process and fully investigate the application.

b. An Applicant's failure to provide the requested evidence or information by the Authority's deadline may be grounds for denial.

iii. *Information Must Be Provided Truthfully*

All Applicants shall submit information to the Authority in full, faithful, truthful, and fair manner. The Authority may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

iv. *License and other fees*

a. Applicants and Licensees shall pay the following fees to the Town of Telluride in addition to any fees payable to the state:

I. Application Packet for New License (which shall be credited against the application fee if a complete application is submitted): twenty-five dollars ($25).

II. Application for New License: one thousand dollars ($1,000.00)

III. Application for Renewal of a License: five hundred dollars ($500.00)

IV. Application for Transfer of Location: one thousand dollars ($1,000.00)

V. Application for Change of Principals or Ownership: three hundred dollars ($300.00)

VI. Application for Modification of Premises: four hundred dollars ($400.00)

VII. Late Renewal Fee: five hundred dollars ($500.00)

b. Town Council may approve increases or decreases in fees by resolution.

c. In addition to the foregoing fees, Applicants and Licensees shall pay the reasonable fees of any governmental agency conducting any investigation, inspection, other licensing, registration, fingerprinting, approval, or permitting required under the Telluride Municipal Code, as amended, State law, or State regulations.

d. The primary purpose of the fees provided in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of the general services of municipal government or to raise general revenues. The fees provided in this Section are reasonably related and proportional to the costs of the services provided and do not generate additional Town revenue.

e. If any License or application is denied, approved but not issued, lapsed, abandoned, withdrawn, surrendered, suspended, fined, revoked, or otherwise sanctioned, no part of the fees paid shall be refunded to the Applicant or Licensee.

v. *Coordination with State Retail Marijuana Licensing Authority and State Requirements*.

a. The Authority shall inform the State Retail Marijuana Licensing Authority of its investigations, inspections, and all decisions approving new Licenses, issuing new Licenses, imposing conditions on Licenses, renewing Licenses, approving major changes in Licenses, information regarding minor changes, and sanctions imposed on Licenses.

b. To the extent that such coordination is reasonably feasible and efficient, the Authority shall coordinate its investigations

and actions with the Division, but the Authority reserves the right to act independently and to reach its own findings of fact, findings of law, and conclusions regarding approvals, issuance, denials, conditions, renewals, major changes, sanctions of Licenses, and any other matter related to Licenses, without regard to the findings of fact, findings of law, and conclusions that the State may reach regarding the same Licenses based on the same incident or conduct.

c. The approval or issuance of a License under this Article shall not constitute a representation, in any way, by the Authority that the Licensee is qualified for or will receive a State Retail Marijuana License or a Marijuana Testing Facilities License or a Marijuana Product Manufacturing Facilities License.

vi. *Review of Application for a New License, determination and findings*.

a. Within ninety (90) days of the date that the Authority accepts an application for a new Retail Marijuana License or Marijuana Testing Facilities License or a Marijuana Product Manufacturing Facilities License as complete, the Authority shall review the application and issue its determination and findings. The Authority shall notify the Applicant in writing of its determination and findings by U.S. mail, certified return receipt requested or by electronic mail delivery receipt requested.

b. If the determination of the Authority states that the application appears to show a prima facie case for approval of a License, the Applicant shall, within thirty (30) days of the date the Authority mailed its determination and findings to the Applicant pursue one of the following options, and failure to do so shall constitute a Withdrawal of the application:

I. Set the application for a hearing in accordance with Section 6-6-107(b); or

II. Request from the Authority, in writing, a continuance of the setting of a hearing in order to satisfy deficiencies stated in the determination and findings, for no more than one-hundred and twenty (120) days from the date the Authority mailed its determination and findings to the Applicant. Failure of the applicant to set a hearing within one-hundred and twenty (120) days shall constitute a denial of the application.

vii. *Renewal of License*

a. A Licensee may renew its License by submitting an application at least thirty (30) days before and no more than ninety (90) days before the expiration of the License. If a Licensee fails to file an application for renewal of his License at least thirty (30) days before expiration of the License, the License shall expire.

b. A Licensee may renew a License that has expired, if:

I. The License has expired for less than ninety (90) days; and

II. The Licensee pays the regular renewal fee and an additional five hundred dollars ($500.00) late renewal fee.

c. The Authority may summarily grant an application for renewal or hold a public hearing for the same if it appears from the application and other information that the Licensee is:

I. In compliance with this Article;

II. There have not been any major changes in the Licensee, the Principals, the Licensed Premises, the Adjacent Grounds, or the Registered Manager previously approved; and

III. There is no reason to believe that there are any grounds for sanctions or denial of the License.

d. The Authority shall set a public hearing on the application for renewal if it finds that there is probable cause to believe the Licensee:

I. Is not in compliance with this Article or has committed violations of this Article or is not in compliance with State law or State regulations pertaining to Retail Marijuana or has committed violations of State law or State regulations pertaining to Retail Marijuana or Marijuana Testing Facilities or a Marijuana Product Manufacturing Facilities License; or

II. There is probable cause to believe that there are grounds for sanctions as provided in this Article;

III. There have been any major changes described in Section 6-6-107(c)xiii or any unreported minor changes described in Section 6-6-107(c)xiv.

viii. *Burden of Proof*

a. In any proceeding under this Article to obtain approval or issuance of a License, renewal of a License, denial of a License, or to obtain approval for any new Principal,

Registered Manager, Employee, or any major change, the Applicant or Licensee shall have the burden to prove, by a preponderance of the evidence:

a. His or her right to such License; and

b. That there is no Good Cause for denial of the License or approval.

b. In any proceeding under this Article in which any Person seeks to impose a condition on a License, the Person seeking to impose the condition shall have the burden to prove by a preponderance of the evidence that the condition is necessary to protect public health, safety or welfare.

c. In any proceeding under this Article to impose any sanction against a License, the Town shall have the burden to prove every allegation necessary to impose a sanction by a preponderance of the evidence. (Ord. 1407, 2014)

(b) License Hearings

i. Notice for hearings on applications for new Licenses, denial of a new License, renewals of Licenses, approval of major changes and for alleged violations of this Article shall be given to the public in the manner prescribed by State law by posting a notice at least twenty-four (24) inches by twenty-four (24) inches in length in letters at least one (1) inch in height on the proposed Premises, publishing a notice in a newspaper of general circulation and publishing to the Town of Telluride website at least fifteen (15) days before the hearing.

ii. The Applicant or Licensee shall bear the responsibility of setting the matter for a hearing, and publishing and posting notices. If the hearing is for an alleged violation of this Article, the clerk to the Authority shall set the matter for a hearing and publish and post notices.

iii. All notices shall state the date, time and place of the hearing, the name of the Applicant or Licensee, the address of the proposed or Licensed Premises, and the issue before the Authority.

iv. Hearing procedures

a. Hearings shall be conducted in accordance with the procedures outlined in this Article. Where this Article does not address a procedural issue, the procedures in Article 43.4, Title 12, Colorado Revised Statutes, and any other procedural rules enacted pursuant to that article shall apply unless the same are clearly inconsistent with the provisions of this Article.

b. Failure of an Applicant or Licensee to appear at any scheduled hearing of which the Applicant or Licensee has received notice or has himself set, and for which notice was posted and published in compliance with this Article, without a showing of Good Cause verified by the Applicant's affidavit filed with the Authority within ten (10) days of the scheduled hearing, shall constitute a default and a Withdrawal of the application or motion, and a default of any complaint, Order to Show Cause, motion or other matter pending against the Licensee. Any such application or motion withdrawn by the Applicant or Licensee may not be re-filed for one year.

c. After an application has been filed, a hearing on the application has been set, and notice has been published and posted in compliance with this Article, any Withdrawal of the application by the Applicant shall constitute a denial of the License, unless the Town stipulates that the Withdrawal shall not constitute such a denial.

d. The Authority may adjourn and continue any hearing, at the request of the applicant and with the consent of the Town, to give the Applicant an opportunity to fulfill any requirement that has not been met or to make changes to its application.

e. Every party who has standing to be heard at a hearing shall provide a list of witnesses, exhibits, copies of any statement or reports relevant to the matter to every other party who has standing, along with copies of exhibits, at least ten (10) days before the hearing. No party shall be entitled to any additional discovery and the Authority shall not order additional discovery.

(c) Engaging in Business.

i. No Person shall engage in the business of selling Retail Marijuana Products or engage in the business of Marijuana Testing Facilities or a Marijuana Product Manufacturing Facilities in Town unless said Person is duly licensed by the State Licensing Authority and the Local Licensing Authority.

ii. No Person shall operate a Retail Marijuana Store or Marijuana Testing Facilities or a Marijuana Product Manufacturing Facilities in Town unless he or she has first obtained all relevant State and Town sales and use tax licenses and business licenses.

iii. No Person shall operate a Retail Marijuana Store or Marijuana Testing Facilities or a Marijuana Product Manufacturing Facilities in Town unless he or she has obtained a Certificate of Zoning Compliance, pursuant to the Telluride Land Use Code Section 3-920 for the location of the proposed Licensed Premises.

iv. No portion of the Licensed Premises shall be located within five hundred (500) feet of any public or private school as such school is defined by C.R.S. § 12-47-103(32).

v. The proposed Licensed Premises and Adjacent Grounds must comply with all zoning, building, plumbing, mechanical, fire, and other codes, statutes, and ordinances, as shown by completed inspections and approvals from the Telluride Planning and Building and Public Works Departments, and Telluride Fire Protection District.

vi. The Cultivation Operations area of the Licensed Premises, if any, must:

a. be equipped with a ventilation system sufficient in type and capacity to eliminate marijuana odors emanating from the interior to any public property or right of way within the Town, discernible by a reasonable person. The ventilation system must be inspected and approved by the Telluride Building Department; and

b. have walls, barriers, locks, signs and other means in place to prevent the public from entering the area of the Licensed Premises utilized for cultivation.

vii. No Retail Marijuana Store License or Marijuana Testing Facilities License or a Marijuana Product Manufacturing Facilities License shall be effective prior to January 1, 2014.

viii. In the event that the People of the Town of Telluride, by a majority of the registered electors of the Town, at a regular or special election, or a majority of Town Council, vote to prohibit by ordinance the licensing and operation of Retail Marijuana Stores, within the Town of Telluride, pursuant to C.R.S. §12-43.4-301, then every License issued or approved under this Article, which is prohibited under such ordinance, shall be deemed void and the operation of any Retail Marijuana Store or Marijuana Testing Facilities or a Marijuana Product Manufacturing Facilities prohibited under the ordinance shall become illegal on the effective day of the ordinance.

ix. Prior to initiating a sale, the Employee making the sale shall verify that the purchaser has a valid identification card showing the purchaser is twenty-one (21) years of age or older.

x. Personal requirements for the Licensee, Principals, Registered Manager and Employees:

a. The Applicant, Principals, Registered Manager, and Employees meet all requirements for issuance of a State License; including but not limited to obtaining Occupational Licenses as necessary.

b. The Applicant, Principals, Registered Manager, and Employees are all at least twenty-one (21) years of age.

c. The Applicant, Principals, Registered Manager, and Employees have not been determined by any Retail Marijuana Licensing Authority, any other licensing board within the State, or the Colorado Department of Revenue to not be Persons of good Character and Record within the preceding three (3) years.

d. The Applicant, Principals, Registered Manager, and Employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application. This shall constitute a per se and complete disqualification.

e. The Applicant, Principals, Registered Manager, and Employees have never been convicted of a felony pursuant to state or federal law regarding the possession, distribution, manufacturing or use of a controlled substance. This shall constitute a per se and complete disqualification.

f. The Applicant, the Applicant's creditors, Principals, Registered Manager, and Employees are Persons of good Character and Record. When making any determination as to good Character and Record, the Authority may consider whether an Applicant, Principal, Registered Manager, or Employee has rehabilitated himself after committing a crime or

other act or omission tending to indicate that such Person is not a Person of good character, but rehabilitation shall not be considered when the crime or other disqualifying act or omission is declared a per se disqualification under this Article. Notwithstanding any other burden for proof stated in this Article, the burden of proof to show that a Person has been rehabilitated shall be beyond a reasonable doubt and shall be on the individual whose character is at issue. When evaluating claims of rehabilitation, the Authority shall consider the following factors:

I. The facts of the specific crime or other act tending to show bad Character and Record;

II. Whether the specific crime or other act tending to show bad Character and Record involved controlled substances, dishonesty, fraud, bad faith, moral turpitude, or violence;

III. Whether the specific crime or other act tending to show bad Character and Record involved a felony, misdemeanor, municipal offense, a civil wrong, or other wrongful conduct;

IV. Whether the specific crime or act caused injury or harm to other Persons or entities and the extent of such harm or injury;

V. The length of time that has expired since the act or omission was committed;

VI. Whether the Person has led a law abiding life and has demonstrated good character since the act or omission was committed;

VII. Restitution, damages and compensation that the Person has paid to Persons victimized by the act or omission;

VIII. Fines, jail sentences, probation, community service and other penalties paid or served since the act was committed; and

IX. Any other factors tending to show that the Person has or has not rehabilitated his or her character and conduct.

xi. All Persons licensed pursuant to this Article shall collect sales tax on all retail sales made at a Retail Marijuana Store. Failure to timely remit sales tax as required by law shall be grounds for revocation of the Licensee's Retail Marijuana License.

xii. The Licensee shall post the following on the Licensed Premises in a prominent place where the public, Consumers, and primary caregivers can easily view and read while standing in a location accessible to the Public:

a. The License certificate issued by the State, along with any conditions on the same.

b. The License certificate issued by the local Authority along with any condition on the same.

c. A notice at least eighteen (18) inches by twenty-four (24) inches in length in letters at least one (1) inch in height, stating:

THIS RETAIL MARIJUANA LICENSED PREMISES IS MANAGED BY: (STATE NAME, ADDRESS AND PHONE NUMBER FOR REGISTERED MANAGER). THE PRINCIPALS IN THIS BUSINESS ARE AS FOLLOWS: (NAMES).

d. A notice at least eighteen (18) inches by twenty-four (24) inches in length in letters at least one (1) inch in height, stating:

IF YOU HAVE CONCERNS ABOUT THE WAY THIS RETAIL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE TELLURIDE MARSHAL'S DEPARTMENT AT: 728-3818; and

e. If the Licensee has received any sanction from the Authority during the preceding five years, a notice at least eighteen (18) inches by twenty-four (24) inches in length in letters at least one (1) inch in height, stating:

THIS RETAIL MARIJUANA LICENSE HAS BEEN SANCTIONED BY THE TELLURIDE RETAIL MARIJUANA LICENSING AUTHORITY DURING THE PRECEDING FIVE (5) YEARS FOR THE FOLLOWING MISCONDUCT:

(STATE DATE, VIOLATION, AND SANCTION RECEIVED, LISTING ALL VIOLATIONS AND SANCTIONS IMPOSED IN THE PRECEDING FIVE (5) YEARS).

f. A notice at least twenty-four (24) inches by eighteen (18) inches in letters at least one (1) inch in height, stating:

THE RETAIL MARIJUANA SOLD ON THESE PREMISES IS CULTIVATED, MANUFACTURED AND PROCESSED WITHOUT ANY GOVERNMENTAL OVERSIGHT AS TO HEALTH, SAFETY OR EFFICACY.

THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OF RETAIL MARIJUANA.

THE CHEMICALS, ADDITIVES, PESTICIDES, HERBICIDES, AND FERTILIZERS, ARTIFICIAL AND NATURAL, USED IN THE CULTIVATION, PROCESSING, PRODUCTION, AND STORAGE OF THE PRODUCT ARE LISTED ON THE PACKAGING OF EACH PRODUCT.

g. A notice at least twenty-four (24) inches by eighteen (18) inches in letters at least one (1) inch in height, stating:

THE USE OF RETAIL MARIJUANA MAY IMPAIR A PERSON'S ABILITY TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY. IT IS ILLEGAL UNDER STATE LAW TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY MARIJUANA.

SMOKING OR CONSUMING RETAIL MARIJUANA WITHIN THESE PREMISES, WITHIN 15 FEET OF THESE PREMISES, OR ANYWHERE IN PUBLIC IS UNLAWFUL.

SMOKING OR CONSUMING RETAIL MARIJUANA CAUSES LUNG CANCER, HEART DISEASE, EMPHYSEMA, AND MAY COMPLICATE PREGNANCY.

h. The Licensee shall post the following on the Licensed Premises in a prominent place near other notices to Employees, where the Licensee, Principals, Registered Manager, and Employees can easily view the same: a notice a least twenty-four (24) inches by eighteen (18) inches in letters at least one (1) inch in height, stating:

NOTICE TO LICENSEE, PRINCIPALS, REGISTERED MANAGER AND EMPLOYEES:

THESE PREMISES, THE ADJACENT GROUNDS, AND EVERY ROOM, AREA, LOCKER, SAFE, AND CONTAINER ON THE LICENSED PREMISES AND ADJACENT GROUNDS EXCEPT YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE, ARE SUBJECT TO INSPECTION BY TOWN EMPLOYEES AND THE TOWN MARSHALS DEPARTMENT AT ANY TIME THAT ANY PERSON IS PRESENT ON THE LICENSED PREMISES, WITHOUT A WARRANT, AND WITHOUT REASONABLE SUSPICION TO BELIEVE THAT ANY OFFENSE HAS OCCURRED. YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY ON THESE PREMISES AND THE ADJACENT GROUNDS EXCEPT IN YOUR PERSON, AND YOUR PRIVATE VEHICLE.

xiii. *Major changes to License, Licensed Premises, or Adjacent Grounds*

a. The Licensee shall not make any major changes to the License, Licensed Premises, or Adjacent Grounds without first obtaining the written approval of the Authority.

b. The Authority may summarily approve all proposed major changes or hold a public hearing on the same, in the Authority's discretion, depending on how substantial the change appears to be and whether the proposed change is likely to cause any substantial Harm to Public Health, Safety, or Welfare.

c. No application for transfer of ownership, transfer of location, or other major change may be applied for or acted upon while any matter, except the subject of the major change application, is pending with the Authority or the State.

xiv. *Minor Changes to License, Licensed Premises, or Adjacent Grounds*

a. Every Licensee shall report the following to the Authority, in writing, within ten (10) days of such event:

I. Any new credits or debts that the Licensee or its Principals may incur that are related to the Licensed Premises, Adjacent Grounds, or any ownership interest in the Licensee, in a single or cumulative amount greater than ten thousand dollars ($10,000.00);

II. Any charges filed against or any conviction of any Principal, Registered Manager, or Employee for any felony, misdemeanor, or serious traffic offense including but not limited to any deferred judgment or entry into any diversion program ordered or supervised by a court of law; or

III. The hiring, dismissal, or resignation of any Employee.

xv. Pursuant to Colorado law found at C.R.S. § 9-7-113, Use of flammable gases in home marijuana cultivation-prohibited, which

provides that "A local government may ban the use of a compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids in a residential setting" and the provisions of Section 16 of Article XVIII of the Colorado Constitution, it is unlawful and a violation of this Article for any person to manufacture hash oil anywhere within the Town of Telluride or to operate a Retail Marijuana Products Manufacturing Facility producing Solvent-Based Retail Marijuana Concentrate, by use of solvents containing compressed flammable gases, which are regulated under Colorado Department of Revenue, Marijuana Enforcement Division, Retail Marijuana Code Rule 605 (1CCR212-2). (Ord. 1407, 2014)

(d) Retail Marijuana and Medical Marijuana Possessed, Distributed and/or Processed in the Same Facility.

i. On or after October 1, 2013, a Person who is operating in good standing a licensed Medical Marijuana Center may apply for a Retail Marijuana Store License under this Article.

a. An Applicant shall indicate whether he or she wants to surrender the current Medical Marijuana License or intends to retain the License in addition to the Retail Marijuana Store License.

b. If the Applicant indicates a desire to surrender the Medical Marijuana License, the Applicant shall continue to operate under that license until a Retail Marijuana Establishment License is approved. If the Retail Marijuana Establishment License is granted, the Applicant shall have fourteen (14) days to surrender the Medical Marijuana License to the State and Local Licensing Authority. If the Retail Marijuana License is granted, all Medical Marijuana plants and inventory shall become Retail Marijuana plants and inventory on the date of the Retail Marijuana Store License pursuant to the Colorado Retail Marijuana Code.

ii. An Applicant may apply for a Retail Marijuana Store License and retain the Medical Marijuana license. At the time the Retail Marijuana Store License is granted, the Applicant shall identify the Medical Marijuana inventory that will become Retail Marijuana inventory upon receiving the Retail Marijuana Store License.

iii. An Applicant who retains a Medical Marijuana license and obtains a Retail Marijuana Store License for the two Licensed Premises must maintain actual physical separation between the two facilities or certify by affidavit and as a condition of the Retail Marijuana Store license that it will only sell to individuals at least twenty-one (21) years of age.

iv. Cultivation operations shall maintain either physical or virtual separation of the plants and inventory of the two facilities in compliance with the Rules.

(e) Containers and Labeling.

i. All Retail Marijuana sold at a licensed Retail Marijuana Store shall be packaged and labeled as required by the Rules.

ii. A Retail Marijuana Store must place each sold item in a sealed, nontransparent Container, at the point of sale.

iii. Labeling requirements for Retail Marijuana and Retail Marijuana Products sold by a Retail Marijuana Store that are at least as stringent as imposed by the Rules, and include but are not limited to:

a. The License number of the Retail Marijuana Store;

b. The batch number;

c. A net weight statement;

d. THC potency and the potency of such other cannabinoids or other chemicals, including but not limited to CBD, as determined by the State Licensing Authority;

e. A list of the nonorganic pesticides, fungicides, herbicides, and solvents used during cultivation or production;

f. A statement to the effect of "This product contains Marijuana and was cultivated or produced without regulatory oversight for health, safety, or efficacy, and there may be health risks associated with the consumption of the product";

g. Warning Labels;

h. Solvents used in the extraction process;

i. Amount of THC per serving and the number of servings per packaging for Marijuana Products;

j. A list of ingredients and possible allergens for Marijuana Products;

k. A recommended use by or expiration date for Marijuana Products;

l. A nutritional fact panel; and

m. A universal symbol indicating the package contains Marijuana or a Marijuana Product;

(f) Security and Control Measures

i. The Applicant has sole legal control of the proposed Licensed Premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed Licensed Premises.

ii. The proposed Licensed Premises have a suitable Limited Access Area where the cultivation, display, storage, processing, weighing, handling, and packaging of Retail Marijuana occurs, which is posted "Employees Only," and is separated from the areas accessible to the public by a wall, counter, or some other substantial barrier designed to keep the public from entering the area.

iii. The Applicant has submitted a security plan for the proposed Licensed Premises, which has been inspected and approved by the Marshal's Department, showing at least the following security measures:

a. All doors, windows and other points of entry have secure, functioning commercial grade locks;

b. A locking safe or enclosed metallic storage vault located inside the proposed Licensed Premises in which any Retail Marijuana and Retail Marijuana Products will be secured when the Licensed Premises are not open to the public;

c. If the Licensed Premises are connected by any passage or entryway to any other Premises, there is a door between the two Premises that can be locked from the Licensee side and cannot be opened from the other side;

d. A professionally installed and continuously monitored burglar alarm system that detects unauthorized entry at all doors, windows, and other points of entry to the Licensed Premises; and

e. Windows facing Adjacent Grounds and lighting of the Adjacent Grounds sufficient to ensure that customers entering and leaving the Licensed Premises, entering and exiting parked cars on the adjacent grounds, and walking across the Adjacent Grounds can be observed by Employees from inside the Licensed Premises.

(g) Books and Records

i. Every Licensee shall maintain on the Licensed Premises, accurate and up to date books and records of the business operations, or an authentic copy of the same, including but not limited to the following:

a. Lists, manifests, orders, invoices, and receipts for all Marijuana, Marijuana plants, and Marijuana Products cultivated, harvested, processed, produced, delivered, purchased, stored, sold, and exchanged during the preceding two (2) years, by each transaction or event, including the date and time of each transaction, source, strain, type quantity, weight, that account for, reconcile and evidence all inventory activity for Retail Marijuana from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to a customer and any additional relevant information for proper recordkeeping for tax purposes;

b. An inventory of all Marijuana Products presently on the Licensed Premises;

c. Sales and use taxes collected and remitted;

d. Excise tax collected and remitted if approved by voters in the 2013 general election; and

e. The name, address, and copy of the Retail Marijuana License of any other Retail Marijuana Establishment Licensee with whom the Licensee has transacted any business, including but not limited to, any purchase, sale, or exchange of Marijuana plants, harvested Marijuana, or Retail Marijuana Products.

ii. Inspection of books and records; audits.

The Authority may require a Retail Marijuana Store Licensee to undergo an audit by an accountant that is independent of the Licensee, when it deems an audit necessary. The audit scope may include, but not be limited to financial transactions, inventory control measures, or other agreed upon procedures. The Licensee will be responsible for all direct costs associated with the independent audit.

iii. Requests for Information

a. The Authority and any Town Employee enforcing any Town ordinance, State law, or regulation may submit a written request for

information relevant to the Licensee by certified mail, return receipt requested at the address of the Licensed Premises.

b. The Licensee shall provide complete written answers to such questions, signed by the Registered manager, within twenty (20) days of the date the request was mailed or delivered.

c. The Licensee, Principals, Registered Manager, and Employees shall have no expectation of privacy in any information or document pertaining to the operation of the Retail Marijuana Store, Licensed Premises, and Adjacent Grounds as to the State or Town, but the Town shall not release the information and records as public records.

(h) Tradenames, Trademarks, Logos, and Advertising

i. Nothing contained in this section shall be construed as creating a prior restraint on speech or press. The Authority shall not require an Applicant or Licensee to obtain any approval or License from the Authority before using any logo, trademark, tradename, or advertising. Nothing contained in this subsection shall prevent the Town from taking civil, administrative or criminal action, against any Person or License, logo, trademark, tradename, or advertising.

ii. It shall be unlawful for any Licensee to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors. It shall be unlawful for any licensee to refer to infused Marijuana Products by solely referencing the method of transmitting such infused products such as, but not limited to, Ice Cream, Yogurt, Truffles, Candy, Soda, Caramels, Juice or Brownies. Any reference to such infused medical marijuana products each and every time must also include the word “marijuana” or phrase commonly understood as referring to marijuana.

iii. These restrictions are intended to apply to any and all signage associated with the licensed premises, any and all advertising, in whatever format, for the licensed premises and any and all representations of the licensed premises to the public.

(i) Inspection of Licensed Premises and Adjacent Grounds.

i. Every Licensed Premises and Adjacent Grounds shall be open to inspection by police officers, building officials, firefighters, zoning officials, sales, use, and excise tax officials, and health department officials during regular business hours and provided that the Registered Manager or Principal is present in the Licensed Premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation or criminal offense has occurred.

ii. The Licensees, Principals, Registered Managers, and Employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, vehicles, furniture, safes, lockers, or Containers on the Licensed Premises and Adjacent Grounds, except as provided in this Section. Licensees, Principals, Registered Managers, and Employees on the Licensed Premises and Adjacent Grounds shall retain a reasonable expectation of privacy with regard to their Persons, the personal effects in their immediate possession, and their own motor vehicles.

(j) Uses Prohibited.

i. It is unlawful under State and local law to cultivate, manufacture, distribute, or sell Retail Marijuana, except in compliance with the terms, conditions, limitations, and restrictions in Section 16 of Article XVIII of the State Constitution and Article 43.4 of Title 12 C.R.S, the Rules and this Article.

ii. There shall be no consumption of Marijuana that is conducted openly and publicly or in a manner that endangers the public health, safety, or welfare.

iii. It is unlawful to sell, to distribute to, or allow any Person under the age of twenty-one (21) years old to possess Retail Marijuana or Retail Marijuana Products.

iv. It is unlawful for any Licensee, Principal, Registered Manager, or Employee of a Licensee to commit any of the following acts:

a. To violate or to fail, neglect, or refuse to comply with any requirement of this Article, Article 43.4, Title 12, Colorado Revised Statutes, or any State regulation pertaining to retail or Medical Marijuana;

b. To Permit any violation of this Article or any law or regulation on the Licensed Premises or the Adjacent Grounds;

c. To operate a Retail Marijuana center at any time that any of the requirements or conditions contained in Sections 6-6-107 are not satisfied;

d. To sell, dispense, or give away any Retail Marijuana, Marijuana plants, or Marijuana Product to any Person except another Retail Marijuana Licensee, to the extent and in a manner permitted by law;

e. To fail, neglect, or refuse to collect sales tax on any transaction or to promptly pay any tax, fee, or charge required under this Article or other Chapters of the Telluride Municipal Code;

f. To fail, neglect, or refuse to promptly provide any books, reports, information, documents, or answers to requests for information required under this Article;

g. To violate any ordinance, statute, or regulation on the Licensed Premises or Adjacent Grounds;

h. To violate an condition or to Permit the violation of any condition placed on a License under this Article;

i. To Permit anyone under the age of twenty-one (21) to be present on the Licensed Premises;

j. To permit any Person who is not an Employee to enter a Limited Access Area;

k. To Permit any Employee to enter a Limited Access Area without a visible Employee duly issued Licensed Occupational badge;

l. To conduct any processing, packaging, display, sale, or exchange of Marijuana plants, harvested Retail Marijuana, or Marijuana Product outside the Licensed Premises except in compliance with the Rules and the Colorado Retail Marijuana Code;

m. To fail, neglect, or refuse to package and Label any Retail Marijuana plant, harvested Marijuana, sold or exchanged on the Licensed Premises in compliance with this Article and the Rules;

n. To transport any quantity of Retail Marijuana without carrying with the Retail Marijuana a written manifest showing the following information, or to refuse to provide to any law enforcement officer upon demand a written manifest of the following information:

I. The weight and volume of Marijuana carried;

II. A description of the make, model, and VIN number of the vehicle carrying the Retail Marijuana;

III. The name and address of the driver of the vehicle;

IV. The name and address of the Licensed Retail Marijuana Establishment from which the Retail Marijuana originated;

V. The name and address of the Licensed Retail Marijuana Establishment to which the Retail Marijuana is being delivered;

VI. The date and time that the Marijuana departed the licensed Medical Marijuana facility where the Marijuana originated; and

VII. The intended route form source to destination.

v. A Retail Marijuana Store shall not sell more than one-fourth (1/4) of an ounce of Marijuana or Marijuana Products to a non-resident of the State of Colorado during a single transaction.

vi. A Retail Marijuana Store may not sell any Retail Marijuana Product that contains nicotine or alcohol.

(k) Disciplinary Actions Against Licenses and Licensees.

i. How a Disciplinary Action is Initiated

a. If the Local Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Retail Code, any rule or regulation promulgated pursuant to it, or any of its orders, the Local Licensing Authority shall issue and serve upon the Licensee an Order to Show Case (administrative citation) as to why its license should not be suspended or revoked.

b. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended or revoked should the charges contained in the notice be sustained upon final hearing.

ii. Hearings to be conducted in accordance with “License Hearings” above.

iii. Sanctions

a. Upon a finding of a violation by Licensee of any of the provisions of this Article, the Authority may impose any one or more of the following sanctions against a License or the Licensee, in whatever combination the Authority finds appropriate, except that no sanction may be used in addition to revocation:

I. A Licensee who has new conditions imposed on this License as a sanction shall bring the Licensed Premises into compliance with the new condition within such period as the Authority may specify in its order. Failure to do so may be grounds for further sanctions.

II. A fine in an amount to be determined by the Authority, but not to exceed one thousand dollars ($1,000.00) or imprisonment for not more than ninety (90) days, or both. A Licensee who has been sanctioned with a fine shall pay the fine and costs imposed within the time specified in the Authority's order. In the event that the fine is not paid within the time specified, the Authority may impose any suspended License suspension or impose alternative or additional sanctions for failure to pay the fine or costs in a timely manner.

III. A suspension for up to one hundred and eighty (180) days;

a) The Authority may summarily suspend any License without notice or hearing if the Authority finds that there is probable cause to believe that:

i. The Licensee or its Principals, Registered Manager, or Employees have committed a willful or deliberate violation of this Article or State law or State regulations; and

ii. The continued operation of the Retail Marijuana License poses an immediate and substantial threat to public health, safety, and welfare, such that waiting the time required to hold a regular disciplinary hearing would probably result in substantial Harm to Public Health, Safety and Welfare.

b) If the Authority imposes a summary suspension it shall notify the Licensee in writing as soon as is practical that it has been summarily suspended, that it must close its Licensed Premises, and the date, time, and place of the hearing to follow, within three (3) business days.

c) The Authority shall set a full hearing on the sanctions to be imposed for the violation that led to the summary suspension to be held with fifteen (15) days from the date the Licensee was first informed of the summary suspension and required to close the Licensed Premises, unless the Authority finds at the hearing or upon the Town's motion, that there is no longer probable cause to believe that a violation occurred.

d) A Licensee whose License has been suspended shall:

i. Close the Licensed Premises to all Persons except the Registered Manager and Employees during the term of the suspension;

ii. Post a notice on every entrance to the Premises regarding the sanction, as described in Section 6-6-107(c)xiii.

IV. The reasonable costs of investigating, prosecuting, and hearing the violation, including the direct and indirect costs of the Town Attorney, police officers, witnesses, subpoenas, hearing officer, and other Town Employees utilized in any proceeding for sanctions; and

V. Revocation. A Licensee whose License has been revoked shall:

a) Close the Licensed Premises and dispose of all Retail Marijuana on the Licensed Premises through legal means within such time and by such means as the Authority may order.

b) Not to be eligible to apply for a new License for a period of two (2) years.

VI. The Authority may impose the following sanctions for contempt:

a) Removal of the Person committing the contempt from the proceedings, the hearing room and its environs;

b) Public censure, which shall be made a matter of the Licensee's record and may be used as an aggravating factor in determining any fine, suspension, or revocation;

c) A prohibition against the individual or Licensee introducing into the record testimony, documents, exhibits, or other evidence;

d) An order striking, disregarding and refusing to consider pleadings, applications, documents, objections, testimony, exhibits, or other evidence or arguments already introduced by such Person;

e) A fine, enforced by suspension of the License until the fine is paid;

f) Default of any motion, Complaint, or other action then pending against the Licensee; or

g) Denial of any application by the Licensee then pending before the Authority.

b. In determining the appropriate sanction, and whether any sanction or portion of a sanction should be suspended, the Authority shall consider the following factors:

I. The severity of the violation;

II. Whether the violation was committed deliberately, willfully, intentionally, knowingly, recklessly, wantonly, negligently, or accidentally;

III. Whether the Licensee profited or gained some competitive advantage from the violation or attempt to do so;

IV. Potential and actual harm to residents, businesses, and the reputation of the Retail Marijuana industry;

V. Harm to Public Health, Safety, and Welfare;

VI. Warnings, whether written or verbal, given to the Licensee, Principals, Registered Manager, or Employees by the Authority or any State or Town Employee before the violation occurred;

VII. The deterrent effect of the sanction on the Licensee and other Licensees;

VIII. Whether the violation was committed or permitted by a Principal, Registered Manager, or Employee;

IX. Previous violations by the Licensee, Principals, Registered Manager or Employees of the same or different nature and at the same or different Licensed Premises, including contempt;

X. Steps taken by Licensee before the violation occurred to prevent violations from occurring;

XI. Any plans that the Licensee may present showing how it intends to remedy the problem and prevent the same and similar violations in the future; and

XII. Any other aggravating or mitigating factors, except those the Authority may not legally consider.

c. In determining the appropriate sanction the Authority shall not consider the following factors:

I. Gender, race, ethnicity, ancestry, religion, or sexual orientation;

II. The Licensee's business income at the Licensed Premises, except as provided in C.R.S. §12-43.4-601(3) C.R.S. for fines in lieu of suspension;

III. The probable effect of the sanction on the Licensee's finances;

IV. Any criminal sanction imposed on any Person as a result of the same or related conduct;

V. Any administrative penalty imposed by the State as a result of the same or related conduct;

VI. Any civil judgment imposed as a result of the same or related conduct;

(l) Evidence

i. The Colorado Rules of Evidence and the common law rules of evidence shall not apply. The Authority may accept into evidence any testimony or exhibit and give such evidence the weight that the Authority believes it deserves.

ii. The Authority may accept hearsay testimony and may base its decision solely on such hearsay if such hearsay is reasonably reliable, trustworthy, and has probative value accepted by reasonable and prudent Persons in the conduct of their affairs.

iii. The Authority shall have the ability to exclude evidence and testimony as irrelevant, cumulative, or on the grounds the witness lacks standing.

iv. The Authority may take administrative notice of any matter contained in its file.

(m) Standing. At any hearing for issuance of a new License, for denial of a new License, for renewal or for any major change in the Premises, only the following parties shall have standing to be heard:

i. The Applicant or Licensee;

ii. Any Person who own property and/or resides within a one-thousand (1,000) foot radius of the Adjacent Grounds of the proposed or Licensed Premises;

iii. Any Person who owns or is employed by any business within a one-thousand

(1,000) foot radius of the Adjacent Grounds of the proposed Licensed Premises; and

iv. The Town of Telluride.

(n) Requirements Specific to a Marijuana Product Manufacturing Facilities License

i. The Applicant has a contract with a Retail Marijuana Establishment, stating the type and quantity of Marijuana Products that the Retail Marijuana Establishment will buy from the licensee;

ii. The Applicant can demonstrate compliance with all applicable State and Local laws and regulations regarding the cultivation and/or otherwise lawful procurement of the marijuana necessary for its operation;

iii. The Applicant cultivates at least seventy percent (70%) of the marijuana necessary for its operation; and

iv. The Applicant will use marijuana from no more than five (5) marijuana providers, including its own cultivation operations, to manufacture its Marijuana Products.

v. The Applicant can demonstrate compliance with all applicable provisions of Colorado Department of Revenue, Marijuana Enforcement Division, Retail Marijuana Code Rules 601, 602, 603 and 604 (1CCR212-2) as well as C.R.S. § 12-43.4-404.

(o) Penalties. Any person who violates any provision of this Article or fails, neglects or refuses to perform any act required under this Article shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000.00) or imprisonment of not more than ninety (90) days, or both such fine and imprisonment.

(Ord. 1407, 2014; Ord. 1394, 2013)

CHAPTER 7

Health, Sanitation and Animals

Article 1 Administration and Abatement of Nuisances

Sec. 7-1-10 Definitions
Sec. 7-1-20 Enforcement policy
Sec. 7-1-30 Complaints
Sec. 7-1-40 Author of nuisances
Sec. 7-1-50 Right of entry
Sec. 7-1-60 Summary abatement
Sec. 7-1-70 Issuance of notice to abate
Sec. 7-1-80 Failure to comply with notice
Sec. 7-1-90 Court action to abate
Sec. 7-1-100 Abatement by Town
Sec. 7-1-110 Costs of abatement

Article 2 Nuisances

Sec. 7-2-10 Pollution of streets, streams and water supply
Sec. 7-2-20 Noise
Sec. 7-2-30 Alarm systems
Sec. 7-2-40 Use of vehicles as residences

Article 3 Clean Indoor Air Act

Sec. 7-3-10 Legislative intent and purpose
Sec. 7-3-20 Definitions
Sec. 7-3-30 Smoking prohibited
Sec. 7-3-40 Regulation of smoking in places of employment
Sec. 7-3-50 Posting of signs
Sec. 7-3-60 Exceptions and variances
Sec. 7-3-70 Enforcement and penalties

Article 4 Solid Fuel Burners

Sec. 7-4-10 Definitions
Sec. 7-4-20 Standards for regulation of solid fuel-burning devices
Sec. 7-4-30 Administration
Sec. 7-4-40 General rules and regulations
Sec. 7-4-50 Abatement
Sec. 7-4-60 Investigation and noncompliance
Sec. 7-4-70 Appeals to the Board of Adjustment and Appeals
Sec. 7-4-80 Penalties
Sec. 7-4-90 Colorado Department of Public Health and Environment

Article 5 Resource Recovery and Refuse

Division 1 Removal of Accumulations
Sec. 7-5-10 Removal of accumulation required
Sec. 7-5-20 Construction sites
Sec. 7-5-30 Town collection authorized
Sec. 7-5-40 Contract for collection
Sec. 7-5-50 Private removal
Sec. 7-5-60 Exemption from refuse collection charges

Division 2 Collection Requirements
Sec. 7-5-110 Applicability

Sec. 7-5-120 Containers required
Sec. 7-5-130 Non-Dumpster container standards
Sec. 7-5-140 Dumpster standards
Sec. 7-5-150 Dumpster pads
Sec. 7-5-160 Recoverable resources and refuse placement on collection days
Sec. 7-5-170 Tree trimmings and yard clippings
Sec. 7-5-180 Schedule
Sec. 7-5-190 Separation of recyclable materials

Division 3 Collection Charges
Sec. 7-5-310 Applicability
Sec. 7-5-320 Mandatory payment
Sec. 7-5-330 Liability of owner and occupant
Sec. 7-5-340 Rate and penalty schedule
Sec. 7-5-350 Billing
Sec. 7-5-360 Interest
Sec. 7-5-370 Deduction by tenant from rent
Sec. 7-5-380 Delinquency policy
Sec. 7-5-390 Personal collection
Sec. 7-5-400 Property lien
Sec. 7-5-410 Service termination

Division 4 Nuisances and Offenses
Sec. 7-5-510 Uncontained recyclables or refuse
Sec. 7-5-520 Compost
Sec. 7-5-530 Accumulation of refuse
Sec. 7-5-540 Failure to remove
Sec. 7-5-550 Failure to use containers
Sec. 7-5-560 Improper disposal of special refuse or hot ashes
Sec. 7-5-570 Burning refuse
Sec. 7-5-580 Construction site refuse
Sec. 7-5-590 Disturbing recoverable resources or refuse containers
Sec. 7-5-600 Failure to notify of cause for exemption revocation
Sec. 7-5-610 Improper Dumpster placement
Sec. 7-5-620 Fines, penalty

Article 6 Animals

Division 1 General Provisions
Sec. 7-6-10 Definitions
Sec. 7-6-20 Mens rea and strict liability
Sec. 7-6-30 Affirmative defense

Division 2 Care and Keeping of Animals and Impoundment
Sec. 7-6-110 Noncompanion animals
Sec. 7-6-120 Care of confined animals
Sec. 7-6-130 Protection of mistreated, neglected or abandoned animals
Sec. 7-6-140 At large
Sec. 7-6-150 Hitching
Sec. 7-6-160 Impoundment facility
Sec. 7-6-170 Authority to impound animals
Sec. 7-6-180 Notice of impoundment
Sec. 7-6-190 Pickup and impound fees
Sec. 7-6-200 Release and disposition of impounded animals
Sec. 7-6-210 Feeding of wildlife

Division 3 *Dogs*
Sec. 7-6-310 Licensing requirements
Sec. 7-6-320 Purchase of licenses and fee
Sec. 7-6-330 Display of license tags
Sec. 7-6-340 Dogs in estrus
Sec. 7-6-350 Prohibited activities
Sec. 7-6-360 Leashing required
Sec. 7-6-370 Canine trespass
Sec. 7-6-380 Town Park closures
Sec. 7-6-390 Harassment of wildlife
Sec. 7-6-400 Fines, penalty assessments and other penalties

Article 7 Prohibition on Disposable Plastic Bags
7-7-10 Definitions
7-7-20 Implementation of the Advanced Recovery Fee (ARF) on Grocers.
7-7-30 Town Wide Prohibition on Disposable Plastic Bags
7-7-40 Establishment of Advanced Recovery Fee (ARF)
7-7-50 Establishment of the Town Waste Reduction and Reusable Carryout Bag Program
7-7-60 Required Signage for Grocers
7-7-70 Enforcement and Penalties for Violation

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ARTICLE 1

Administration and Abatement of Nuisances

Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

Aluminum means aluminum cans used to hold beverages, foil and containers for prepared foods.

Author of a public nuisance includes all of the following persons:

a. The owner, or the agent in regard to the property of the owner, of any private property where a public nuisance exists, if the person has knowledge of the condition or circumstance which is a public nuisance.

b. The occupant of any property whereon a public nuisance exists if the occupant's use of the property in any way contributes to the creation or continuation of the public nuisance.

c. Any other person who, directly or by means of an agent, causes or creates a public nuisance, or who, being affirmatively required by law to eliminate a condition which amounts to a public nuisance, allows that condition to exist.

Commercial premises is property whereon there is a building, or a part thereof, which is used for purposes other than as a dwelling (see *dwelling*) or other than as a home occupation incidental to a dwelling. The term includes commercial buildings or commercial establishments therein, whether for profit or nonprofit, including but not limited to those buildings or establishments used for retail, wholesale, industrial, manufacturing, dining, offices, professional services, automobile service, hotels and motels, restaurants or shipping and receiving areas. For purposes of this Article, the Town Manager, by administrative proclamation with due notice as provided in Section 7-5-40 below, may declare that premises whereon any single structure contains four (4) or more dwelling units is a *commercial premises*.

Compost includes what would be garbage and any other decaying substance, whatever the source, but which, due to the compost owner's intent to use for horticulture the residue from the decaying process, cannot be called *waste*.

Corrugated cardboard means paper in which a portion has been made to have a wavy surface (alternating ridges and grooves) and is placed between two (2) flat surfaces, and which is commonly used to form cartons.

Dwelling means a permanent building or portion thereof, which is used as the private residence or sleeping place of one (1) or more persons, but not including hotels, motels, tourist resorts, resort cabins, clubs or hospitals.

Dwelling unit and the *number of dwelling units* are defined as in the Land Use Code.

Garbage means refuse from decayable animal or vegetable wastes.

Glass includes all glass products, bottles and jars.

Newspaper means newsprint-grade paper, the common, inexpensive machine-finished paper made chiefly from wood pulp, which is printed and distributed to the public. This does not include magazines, slick paper and telephone books.

Nonprofit organization means an established organization or foundation dedicated to public service or culture, including but not limited to religious, educational and health care functions. Federal, state and local governmental establishments are considered nonprofit organizations for purposes of this Code.

This term shall include civic clubs, youth groups and extracurricular school organizations.

Nonrecyclable materials means garbage, rubbish and any other materials which are not designated as recyclable materials by the Town.

Poly-cart is a generic term meaning a large-volume, circular or rectangular plastic refuse container which has metal handles and wheels.

Public nuisance means a substance, act, occupation, condition or use of property, which is explicitly declared to be a public nuisance by any of the laws of the Town, or which is of such nature and duration as to:

a. Substantially annoy, injure or endanger any person in respect to that person's health, tranquility or safety;

b. Render unreasonably dangerous any person's life or use of property in any manner whatsoever; or

c. Substantially interfere with, obstruct or render dangerous for passage any street, alley, highway or other public way.

Recyclable materials means glass, aluminum, corrugated cardboard, newspaper, tin and plastics Nos. 1 and 2 designated by the Town to be separated for recycling. The Town Manager may, upon recommendation of the Ecology Commission, designate additional products as recyclable materials.

Recycling receptacle means any bin, box, container, structure or device, whether owned by the Town, its collection agent or a nonprofit organization, with the purpose of serving as a container for the collection of recyclable materials.

Refuse means decayable waste, including, but not limited to, garbage, rubbish, ashes, dead animals, wood furniture, excelsior, tree branches, yard trimmings, street cleaning, dirt, leaves; catch-basin dirt, and nondecayable solid wastes (except body wastes), including, but not limited to, rubbish, nonrecyclable materials, nonreusable materials, discarded recyclables, discarded reusables, appliances, metals, tin cans, metal furniture, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; contents of litter receptacles. Wastes are materials (1) in a ruined or devastated condition not fit for use by a reasonable person or (2) requiring reprocessing to be useful.

Residential premises means premises whereon all structures are used only for dwelling purposes and any home occupations incidental thereto.

Reusable Materials means household goods, not intrinsically defective, for reuse that may be surplus, worn, or secondhand and do not require significant repair or reprocessing to be useful, but shall not include electronics, batteries, tires, mattresses, furniture, refrigerators, large appliances or Special Refuse.

Senior citizen means any human being who is sixty-five (65) years of age or older.

Special event means an outdoor gathering such as a concert, conference or festival.

Special refuse includes the following kinds of refuse:

a. Any refuse which is explosive, combustible or hazardous;

b. Any refuse which is contagious;

c. Dead animals;

d. Abandoned automobiles; and

e. Grease from a commercial restaurant;

(f) Refrigerators and other large appliances; and

(g) Solid market and industrial wastes.

Wildlife means any nondomestic mammal indigenous to the San Miguel Region, including but not limited to black bear, mule deer, elk, raccoon, coyote, beaver, skunk, badger, bobcat, mountain lion, porcupine and fox.

Wildlife-resistant enclosure means a fully enclosed structure of sufficient design and strength to prevent access by wildlife. The enclosure shall be erected only after receiving a certificate of appropriateness issued by the Town. No enclosure shall be located in a public right-of-way and shall be located adjacent to the alley where an alley borders the property, or in an area designated for trash pickup.

Wildlife-resistant refuse container means, at a minimum, a heavy duty, animal-resistant poly-cart with an attached lockable, reinforced lid or a fully enclosed metal container (Dumpster) with an attached lockable, metal lid. The poly-cart lid must have at least a two-latch locking mechanism that prevents access to the contents by wildlife. Containers must be approved by the Town Manager or his or her designee. (Prior code 7.04.010—7.04.230; 8.04.010; Ord. 1288 §1, 2008; Ord. 1293 §1, 2008; Ord. 1302 , 2009)

Sec. 7-1-20. Enforcement policy.

(a) It is the intent of the Town Council that every public nuisance be restrained, prevented, abated, punished and perpetually enjoined. Nothing in this Chapter limits the application of any other Section of the laws of the Town.

(b) The remedies contained in this Chapter are not exclusive, but rather are cumulative with other remedies created under this Code, under the laws of the State and existing at common law and equity. Nothing in this Chapter restricts any person's right to institute proceedings regarding any private nuisance.

(c) Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Prior code 8.04.020; Ord. 1288 §1, 2008)

Sec. 7-1-30. Complaints.

Any person aggrieved by an alleged public nuisance may complain of it to the Town Manager, Building Official, Town Marshal, Town Attorney or any other Town official. All such complaints shall be in writing. A complaint shall state, to the extent of the complainant's knowledge:

(1) The nature of the alleged public nuisance;

(2) The location of the public nuisance, including the street address, the name and address of the owner, and the names and addresses of the owner's agent as to the premises and of the occupant thereof; and

(3) The name and address of the complainant, and how the complainant is aggrieved by the alleged public nuisance. (Prior code 8.04.030)

Sec. 7-1-40. Author of nuisances.

Any state of things prohibited by this Chapter shall be deemed to be a nuisance, and any person who shall act or omit to act in any way or who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Prior code 8.04.050; Ord. 1288 §1, 2008)

Sec. 7-1-50. Right of entry.

Whenever an entry onto or inspection of a premises is necessary to enforce any provisions of this Chapter, or whenever an authorized public servant has probable cause to believe that a public nuisance exists on any premises, the Town Manager, Building Inspector, Fire Chief or any peace officer may enter and inspect the premises and may perform any duty imposed upon them by this Article or by an order of any court. The procedure for entry onto the premises for the purpose of inspection shall be as follows:

(1) Demand. The person seeking entry shall first present proper credentials to the occupant of the premises and demand entry. If the premises are unoccupied, the person seeking entry shall first make reasonable efforts to locate the owner of the premises or other person who has charge or control over the premises. If such person is located, the person seeking entry shall present credentials to, and demand entry from, such person. If consent to the entry is given, the person seeking entry shall enter.

(2) Notice of intent to inspect. If entry is refused or if the owner, occupant or person in charge of the premises cannot be located after a reasonable effort, the person seeking entry shall leave at a prominent place at the premises a written notice of intent to inspect. The notice shall be addressed to the owner, occupant and/or person in charge of the premises, and shall state:

a. That the addressee has the right to refuse entry to anyone who does not have a search warrant; and

b. That, in the event of such a refusal, entry and inspection shall be made only with the aid of a duly issued search warrant.

(3) Warrant. If permission to enter has not been received within twenty-four (24) hours of the posting or delivery of the notice of intent to inspect, the person seeking entry may apply for a search warrant before the judge of any court having jurisdiction. A search warrant shall issue upon the applicant's showing, in written affidavit, that there is probable cause to believe that a public nuisance exists on the premises. The applicant shall not be required to show knowledge or intent on the part of the author of the public nuisance.

(4) Resisting warrant. Any public servant or peace officer acting under a search warrant may use reasonable force to gain entry to the premises described in the warrant. It is unlawful for any owner or person in charge of the premises to resist the entry onto the premises of any person acting pursuant to a search warrant.

(5) Emergency. *Emergency*, as used in this Paragraph, means any situation where there is imminent danger of loss of life, limb and/or property. Whenever an alleged public nuisance on any premises is reasonably believed to create an emergency, the Town Manager, the Fire Chief, any peace officer or an agent of any of them may enter those premises. If such premises are occupied, however, the person shall present proper credentials before entering. (Prior code 8.04.040; Ord. 1288 §1, 2008)

Sec. 7-1-60. Summary abatement.

If the Town Manager or Town Marshal reasonably believes that an alleged public nuisance causes such imminent danger to life, limb, property or health as to require immediate abatement to avert irreparable harm, the Town Manager or Town Marshal may summarily abate the alleged public nuisance by whatever actions, and with the assistance of whatever persons, as are reasonably necessary. (Prior code 8.04.060)

Sec. 7-1-70. Issuance of notice to abate.

In the case of any alleged public nuisance which does not require summary abatement, the Town Manager, Town Attorney, Building Official or Town Marshal shall cause written notice to be

served on an author of the alleged public nuisance. The notice shall require the author of the alleged public nuisance to abate the same within a specified reasonable time and in a specified reasonable manner. The reasonable time for abatement shall not exceed fourteen (14) days, unless this would cause unconscionable hardship on the author of the nuisance. Such notice shall be personally served upon the author of the alleged public nuisance if the person occupies the premises whereon the nuisance exists. If the person does not occupy those premises, the notice shall be posted in a prominent place at the premises, and a copy of the notice shall also be mailed by certified mail to the owner of the premises at the address shown on the County tax rolls. (Prior code 8.04.070)

Sec. 7-1-80. Failure to comply with notice.

(a) No person shall fail to comply fully, within the time specified, with a notice to abate an alleged public nuisance issued to him or her under Section 7-1-70 above.

(b) It is an affirmative defense to a prosecution under this Section that the alleged public nuisance was not a public nuisance, or that the defendant was not the author of the alleged public nuisance. The Town's prosecution of a violation of this Section does not restrict its right to pursue an action for abatement of the public nuisance or for damages. (Prior code 8.04.080)

Sec. 7-1-90. Court action to abate.

When the author of an alleged public nuisance fails to abate it within the time specified in the notice to abate, the Town Attorney shall at once commence abatement proceedings in a court of competent jurisdiction. If the Town Attorney fails to commence such proceedings, any aggrieved person may file an action for abatement on behalf of the people of the Town. The remedies available in the proceedings include but are not restricted to a temporary restraining order, a temporary writ of injunction, a preliminary injunction, a permanent injunction and an order of abatement, to be carried out either by the Town or by the author of the public nuisance. In order for the Town to establish its case for injunctive relief, it is not necessary for the Town to prove the inadequacy of remedies at law. Injunctive relief may be mandatory (requiring affirmative action) or prohibitive (enjoining conduct). (Prior code 8.04.090)

Sec. 7-1-100. Abatement by Town.

Any public servant has authority to carry out a court-ordered abatement, to employ such assistance and to adopt such means as are necessary to effect the abatement of the nuisance. It is the duty of any person acting on behalf of the Town in abating public nuisances to proceed with due care and without unnecessary destruction of property. However, neither the Town nor any person acting on the Town's behalf is liable, in the absence of malice or gross negligence, for the consequences of his or her actions. (Prior code 8.04.100)

Sec. 7-1-110. Costs of abatement.

(a) The author of a public nuisance shall bear all costs of its abatement, whether the author himself or herself abates the nuisance, or whether the Town abates the nuisance pursuant to Section 7-1-60 or 7-1-100 of this Article. If the Town abates, the costs shall include a five-percent assessment for inspection (if any) and for other administrative expenses.

(b) If the abatement has been carried out by the Town and the Town is unable to recover the costs from the author of the nuisance in person, the Town Manager may assess the costs, plus a ten-percent assessment to cover collection expenses, as a lien on the property on which the public nuisance existed. The assessments shall be paid by the owner of the property within thirty (30) days, or else they are collectible under Section 4-1-90 of this Code. Such an assessment is a lien against the property, having priority over other liens except for those of general taxes and prior special assessments. (Prior code 8.04.110)

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ARTICLE 2

Nuisances

Sec. 7-2-10. Pollution of streets, streams and water supply.

No person shall throw or deposit, or cause or permit to be thrown or deposited, any offal (whether composed of animal or vegetable substances), dead animals, excreta, garbage or other offensive matter whatever, or any other substance which might have a polluting effect, into the water of any stream, ditch, pond, well, cistern, trough or other body of water, or sufficiently near to any such place as possibly to pollute the water. (Prior code 8.16.010; Ord. 1288 §1, 2008)

Sec. 7-2-20. Noise.

(a) Making unnecessary noise. A person commits the offense of making unnecessary noise who makes, continues or causes to be made or continued any excessive, unnecessary or unusually loud noise, or any unnecessary noise which annoys, disturbs or injures another person or which endangers another person's comfort, repose, health, peace or safety. Any unnecessary noise which occurs during three (3) days or more is a public nuisance, subject to the provisions of Article 1 of this Chapter.

(b) The following noises are unnecessary noises; however, this list is not exclusive:

(1) Horns, signaling devices, etc.: The sounding anywhere, except as a danger warning, of any horn or signaling device of any motor vehicle, the creation by means of any such signaling device of any unreasonably loud or harsh sound, the sounding of any such signaling device for an unnecessary or unreasonable period of time, or the use of any such signaling device when traffic is jammed.

(2) Radios, tape recorders, etc.: Causing or permitting to be played any radio, tape recorder, CD player, phonograph or other such device for producing or reproducing sound in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants, or at any time at a volume louder than is necessary for the convenient hearing of any voluntary listeners who may be in the room, vehicle or chamber in which the device is being played. The playing of such a device outdoors or, if indoors, between the hours of 9:00 p.m. and 7:00 a.m. the following morning, in such a manner as to be plainly audible a distance of fifty (50) feet from the building or vehicle in which it is located, shall be prima facie evidence of a violation of this Section.

(3) Loudspeakers and amplifiers for advertising: The use in any public place of any loudspeaker, amplifier or other device for producing or reproducing sound for the purpose of commercial advertising or attracting for commercial purposes the attention of the public to any structure or person.

(4) Hooting and whistling: Yelling, shouting, hooting or whistling in the street or public places, particularly during hours of darkness, so as to unreasonably disturb any persons in the vicinity.

(5) Animals: The keeping of any animal or bird which, by causing frequent long-continued noise, disturbs any persons in the vicinity.

(6) Defective vehicle or load: The use of any motor vehicle so out of repair or so loaded that it creates loud and unnecessary grating, grinding, rattling or other noisome kinds of noise.

(7) Loading and unloading, packing and unpacking: The creation of loud and unnecessary noise in connection with loading or

unloading from vehicles or structures, or in connection with opening or destruction of bales, boxes, crates and containers.

(8) *Construction work on structures or the development of property (except as prohibited below in Sections 9-12).* The erection (including excavation), demolition, alteration, moving or repair of any structure or the development of any property between the hours of 6:00 p.m. and 7:00 a.m., Monday through Friday and between the hours of 6:00 p.m. and 9:00 a.m. on Saturday and Sunday; except a private homeowner may perform construction work on his or her own primary home or the development of his or her own property between the hours of 7:00 a.m. and 6:00 p.m., Monday through Sunday, and except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Official. Such a permit shall not be granted for a period which exceeds three (3) days and shall automatically expire sooner if the emergency ceases. If the emergency continues, the permit may be renewed. No period of renewal shall exceed three (3) days. A private owner-builder who is actually working on his or her own private residence (without the assistance of a general contractor or subcontractors) shall not operate heavy equipment or pile drivers on Sundays, but may operate other loud construction equipment or tools on Sundays.

(9) *Heavy equipment.* The operation between the hours of 6:00 p.m. and 8:00 a.m., Monday through Friday, and between the hours of 6:00 p.m. and 9:00 a.m. on Saturday of any crane, front-end loader, backhoe, trackhoe, dump truck, skid steer, excavator or other heavy equipment. No heavy equipment shall be operated on Sunday. Transporting on roadways is permitted one-half (½) hour prior to operation. Exceptions may be permitted by the Public Works Director or the Building Official in case of urgent necessity in the interest of public health and safety. Such a permit shall not be granted for a period which exceeds three (3) days and shall automatically expire sooner if the urgent necessity ceases. If the urgent necessity continues, the permit may be renewed. No period of renewal shall exceed three (3) days.

(10) *Pile drivers, compacter, ram sets, compressors, nail guns, power saws, pneumatic tools (jack hammer, palm nailer, etc.) and other loud construction equipment or tools.* The operation between the hours of 6:00 p.m. and 9:00 a.m. Monday through Friday and between the hours of 6:00 p.m. and 10:00 a.m. on Saturday of any pile driver, pneumatic drill or hammer, hydraulic breaker, hammering or other similar activity, the use of which is attended by loud or stentorian noise. No loud construction equipment or tools shall be operated on Sundays.

(11) *Chainsaws.* The operation of any chainsaw for personal use after 6:00 p.m. and before 8:00 a.m., Monday through Friday, and between the hours of 6:00 p.m. and 9:00 a.m. on Saturday and Sunday. The use of a chainsaw for development or construction is prohibited on Sundays.

(c) For purposes of this Section, members of the Town Marshal's Department are empowered to make a prima facie determination as to whether a noise is unreasonable. (Prior code 8.08.010, 8.08.020; Ord. 1288 §1, 2008; Ord. 1296 §2, 2008)

Sec. 7-2-30. Alarm systems.

(a) Registration required. The owner of any emergency alarm system shall register the system with the Town Marshal's Department. The installer of any existing system shall register such installation with the Town Marshal's Department within three (3) days of installation. Such registration shall be on a form prepared by the Town Marshal's Department, including such information as the location and nature of the alarm

system, the expected responses to the alarm system, the names and telephone numbers of the persons to be notified to render repairs or service and secure the premises, and any other information required by the Town Marshal to protect the health, safety and welfare of the community.

(b) Public nuisance. False alarms transmitted to a police or fire department, ambulance service, or any other agency which responds to emergencies involving danger to life or property, are a public nuisance.

(c) Fee for response. The Town Marshal's Department is authorized to collect a reasonable service charge for responding to any false alarm in the Town. Such charges shall be established from time to time by resolution of the Town Council. Any property owner who fails to pay the service charge within thirty (30) days of any response to a false alarm shall be liable to the Town for interest at the rate of one and one-half percent (1.5%) per month, and costs of collection shall become an automatic lien on the property. The Finance Director is authorized to collect such delinquent service charges, and such charges, interest and costs may be certified to the County Treasurer for collection by foreclosure and public sale. (Prior code 8.20.010, 8.20.020, 8.20.030)

Sec. 7-2-40. Use of vehicles as residences.

(a) Purpose. The unauthorized use of vehicles as residences within public rights-of-way and on public property is deemed to be injurious to residential and nonresidential neighborhoods alike and conducive to the creation and perpetuation of congestion, unwanted noise, sanitation problems, unsightly visual conditions and confrontations between residents and nonresidents. The intent and purpose of this Section is not to regulate vehicles or those locations where vehicles may be parked or stored, but to prohibit activities and occupancies within vehicles so as to protect the integrity of neighborhoods, preserve public streets, rights-of-way and parks for their intended public purposes, ensure the proper use of public property in conformity with zoning and land use regulations and promote the public health and safety.

(b) Definition. As used in this Section, unless the context otherwise requires, the term *vehicle* shall mean any device which is capable of moving itself, or being moved, from place to place upon wheels.

(c) Prohibitions. No person shall occupy any vehicle upon any municipal street, state highway, alley, public right-of-way or public property for the purpose of providing a residence or residential living or sleeping quarters or storage, whether temporary or permanent. The type or nature of any given vehicle shall not be conclusive as to whether a vehicle is being occupied for living or sleeping quarters or other residential use.

(d) Exemptions. The prohibitions as contained in this Section shall not apply to activities undertaken pursuant to a valid and authorized land use, building or camping permit issued by the Town.

(e) Penalty. Persons convicted of violating the terms of this Section shall be subject to a fine of not more than one hundred dollars ($100.00) for each separate offense, up to and including the third offense. For each conviction after the third offense, a person shall be subject to a fine of not more than three hundred dollars ($300.00) and/or imprisonment not to exceed three (3) days. (Prior code 8.05.010, 8.05.020, 8.05.030, 8.05.040, 8.05.050; Ord. 1288 §1, 2008)

Sec. 7-2-50. General Penalty.

Any person, upon conviction of a violation of any provision of this Article, except 7-2-40, shall be subject to a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code for each separate offense, and may be enjoined from any further or continued violation of this Article.

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ARTICLE 3

Clean Indoor Air Act

Sec. 7-3-10. Legislative intent and purpose.

(a) The smoking of tobacco or any other weed or plant creates air pollution which constitutes a material annoyance, discomfort and actual health hazard to persons who are present in confined spaces. The purpose of this Article is to protect the public health, safety and welfare by controlling and limiting the smoking of tobacco, or any weed or plant, in all indoor places as hereinafter set forth.

(b) The restrictions and limitations of this Article shall be viewed as minimum standards, and should not be construed as limiting in any way the authority of persons in control of a public or private place from prohibiting smoking within their establishment or premises altogether. (Prior code 8.03.010; Ord. 1257, 2006; Ord. 1288 §1, 2008)

Sec. 7-3-20. Definitions.

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

Bar means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

Child care center means a facility, by whatsoever name known, which is maintained for the whole or part of a day for the care of children under the age of sixteen (16) years and not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes facilities commonly known as day care centers, day nurseries, nursery schools, kindergartens, preschools, play groups, day camps, summer camps, centers for developmentally disabled children and those facilities which give twenty-four-hour care for dependent and neglected children and includes those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private or parochial college or school. *Family care homes* as defined under Section 26-6-102, C.R.S., shall not be considered a child care center for purposes of this Article.

Employee means any person who provides any type of work for the benefit of another in consideration of direct or indirect wages or profit or who provides uncompensated work or services to a business or nonprofit entity. *Employee* specifically includes any person, described hereinabove, regardless of whether such person is referred to as an employee, contractor, independent contractor or volunteer or by any other designation of title.

Employer means any person, partnership or corporation, including public or municipal corporations, who employs the services of any person.

Entryway means the outside of the front or main doorway leading into a building or facility that is not exempted from the prohibitions of Section 7-3-30 of this Article. *Entryway* also includes the area of both public and private property within a fifteen-foot radius outside of the front or main doorway.

Indoor area means any enclosed area or portion thereof. The opening of windows or doors or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

Place of employment means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to work areas, employee

lounges, conference rooms or employee cafeterias. A private residence is not a place of employment.

Public place means any enclosed area to which the public is invited, or which serves as a place of employment in which the public is permitted, including but not limited to: bank lobbies, education facilities, government offices, health facilities, reception or waiting areas, public rest rooms, restaurants, bars, retail stores, auditoriums, arenas, theaters, waiting rooms, hotel and motel lobbies, retail service establishments, libraries, meeting rooms, recreational facilities, terminals or public conveyances. A private residence not utilized for a business to which the public is invited for business purposes, or as a child care center, is not a public place.

Restaurant means an establishment which serves or offers food and/or beverages for sale to the public and includes, without limitation, coffee shops, cafeterias, bars, bakeries, sandwich shops, delicatessens, clubs or snack shops.

Smoking means the combustion in any cigar, cigarette, pipe or similar article of any form of tobacco or any other combustible substance in any form.

Theater and auditorium means any enclosed area devoted to exhibiting motion pictures or presenting theatrical performances, lectures or like entertainment (Prior code 8.03.020; Ord. 1257, 2006; Ord. 1288 §1, 2008)

Sec. 7-3-30. Smoking prohibited.

Except as provided in Section 7-3-60 below, smoking is unlawful and prohibited in any indoor area, including but not limited to the following: elevators; government-owned or -operated means of mass transportation, including but not limited to buses, vans, gondola cars and trains; taxicabs and limousines; child care centers; gymnasiums; jury waiting and deliberation rooms; courtrooms; doctors' offices, hospitals and health care clinics or facilities; any place of employment that is not exempted; public meeting rooms; public restrooms; restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-unit residential facilities; restaurants; retail stores and shops; public buildings; public schools; restrooms, lobbies, hallways and other common enclosed areas of hotels, motels, or other lodging facilities and in at least seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests; bars; theaters; museums; libraries; entryways (as that term is defined in Section 7-3-20 of this Chapter) of all buildings and facilities listed in this Section; and other businesses or facilities in which the public is invited. (Prior code 8.03.030; Ord. 1257, 2006; Ord. 1288 §1, 2008)

Sec. 7-3-40. Regulation of smoking in places of employment.

(a) Smoking is prohibited in all places of employment, subject to those limited exceptions and conditions as set forth in this Section.

(b) All employers shall adopt, implement and maintain a smoking policy which shall contain, at a minimum, the following elements:

(1) Any employee in a place of employment shall be given the right to designate the area in which he or she works as a nonsmoking area.

(2) In any dispute arising in the workplace under the smoking policy, the health concerns of the nonsmoker shall be given precedence.

(c) An employee smoking policy as required by this Section shall be communicated to all employees within three (3) weeks of its adoption or amendment.

(d) Notwithstanding the provisions of Subsections (a) and (f) of this Section, every

employer shall have the right to designate any place of employment as a nonsmoking area.

(e) No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such an employee or applicant exercises any rights afforded by this Article.

(f) This Section is not intended to regulate smoking in the following places of employment under the following conditions:

A private home which serves as a place of employment of three (3) or fewer employees, provided that the home is not open to the public. In no situation shall this provision be deemed to permit smoking when a private home is used as a child care center. (Prior code 8.03.040; Ord. 1257, 2006; Ord. 1288 §1, 2008)

Sec. 7-3-50. Posting of signs.

Because smoking is prohibited in all indoor areas, unless exempted, there is no requirement for the person who owns, manages, operates or otherwise controls the use of a premises to post "No Smoking" signs. However, the owner or manager of any place subject to the smoking prohibitions of Section 7-3-30 above may post signs prohibiting smoking, including in areas that are otherwise exempt from the smoking prohibitions of the Clean Indoor Air Act. Such posting by an individual authorized to control said premises shall have the effect of including such place within the smoking prohibitions of Section 7-3-30 above. (Prior code 8.03.050; Ord. 1257, 2006; Ord. 1288 §1, 2008)

Sec. 7-3-60. Exceptions and variances.

(a) Smoking is not prohibited in private homes, private residences and private automobiles, except if any such home or residence is being used for child care or day care of if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation.

(b) Limousines under private hire.

(c) A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%).

(d) Any retail tobacco business.

(e) The outdoor area of any business. (Prior code 8.03.060; Ord. 1257, 2006; Ord. 1288 §1, 2008)

Sec. 7-3-70. Enforcement and penalties.

(a) The Town Manager shall be responsible for compliance with this Article with regard to facilities which are owned, operated or leased by the Town.

(b) It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to Section 7-3-30 of this Article.

(c) Smoking and the improper disposal of the unused remainder or any remnants from smoking, including what may be popularly termed "cigarette butts," may result in an independent violation of Section 10-4-100 of this Code if a person throws or leaves litter on any premises to which he or she does not have lawful possession. Such littering provisions apply to, among other things, all public sidewalks and rights-of-way as well as all private areas, including entryways, covered by the provisions of the Clean Indoor Air Act. The provisions of this Article regarding littering are intended to be directly applicable to all owners, operators, managers or employees of any premises subject to the Clean Indoor Air Act.

(d) Owners, operators, managers or employees of any premises subject to Section 7-3-30 of this Article shall be required to notify persons in violation of this Article of any of the provisions of this Article. The duty to so notify a

violator shall arise when such person becomes aware of such violation. It is unlawful for a person who owns, manages, operates or otherwise controls the use of a premises subject to Section 7-3-30 of this Article to violate or to otherwise permit any person to violate the provisions of the Clean Indoor Air Act.

(e) Violation of any of the provisions of this Article is hereby declared to be a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars ($200.00) for a first violation within a calendar year, a fine not to exceed three hundred dollars ($300.00) for a second violation within a calendar year and a fine not to exceed five hundred dollars ($500.00) for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation. Any citizen may register a written complaint for violation of this Article with the Town Marshal's office or the Town Manager.

(f) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Prior code 8.03.070; Ord. 1257, 2006; Ord. 1288 §1, 2008)

ARTICLE 4

Solid Fuel Burners

Sec. 7-4-10. Definitions.

(a) For the purposes of this Article, unless otherwise apparent from the context, certain words and phrases used in this Article are defined as follows:

Appendix A and *Appendix B* mean the test procedures promulgated by the Colorado Department of Public Health and Environment as described in Colorado Air Pollution Regulation No. 4, in effect as of August 15, 1985. See Exhibit A incorporated in this Article by reference.

Department means the Town Building Department.

Person means any individual, public or private corporation, partnership, association, firm, trust, estate or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Solid fuel-burning device means any device, including but not limited to fireplaces or wood stoves of any nature, as defined in Section 25-7-402, C.R.S., or any other device used for the purpose of burning combustible material. This definition specifically excludes barbecue devices or any other authorized burning device used in Town-sponsored activities.

Structure means anything constructed or erected which requires location on the ground and is a combination of roof and supporting walls and/or columns.

Unit means an individual space consisting of enclosed rooms occupying all or part of one (1) or more floors of a structure.

(b) Any word, term or phrase not defined or specified in this Article shall be defined in accordance with the Land Use Code. (Prior code 8.12.010; Ord. 1288 §1, 2008)

Sec. 7-4-20. Standards for regulation of solid fuel-burning devices.

(a) No solid fuel-burning device permit shall be issued unless said device has been certified by the Colorado Department of Public Health and Environment and has an emission rate, calculated as per Colorado Air Pollution Regulation No. 4, Section IV.A, which meets the following standards:

(1) The solid fuel-burning device shall emit particulates at a rate of six (6) grams per hour or less when tested in accordance with Appendix A or four (4) grams per hour or less when tested in accordance with Appendix B.

(2) No solid fuel-burning device permit shall be issued unless said device emits carbon monoxide (CO) at a rate of two hundred (200) grams per hour or less, when tested in accordance with Appendix A or Appendix B, whichever is more stringent.

(3) In the event the State, County or Town establishes more stringent emission standards, the most stringent standards shall apply.

(4) This standard specifically excludes solid fuel-burning devices registered according to the provisions of Section 7-4-30 below; notwithstanding, however, that all solid fuel-burning devices shall be subject to the provisions for abatement in Section 7-4-50 below.

(b) Any solid fuel-burning device so certified as being within the standards set forth herein shall be presumed to be operated within the limits of those standards. Additional solid fuel-burning devices may be certified by the Department upon the applicant's demonstration through testing that the solid fuel-burning device will meet these standards, provided that tests on that proposed model

are conducted by a testing laboratory accredited by the State using a standard method and the results are calculated according to Subsection (a) above as specified in Air Pollution Control Regulation No. 4.

(c) On or before August 1st of each year, the Department will prepare a list of solid fuel-burning devices known to be certified, which list shall be available for inspection in the Department's offices. (Prior code 8.12.020; Ord. 1288 §1, 2008)

Sec. 7-4-30. Administration.

(a) Between August 15, 1985, and October 15, 1985, all persons who own real property wherein a solid fuel-burning device is maintained, used or operated within the Town shall register such device with the Town Clerk on forms provided at the Town Hall. If the owner does not register such device by October 15, 1985, the lessee, if any, may register such device within ten (10) days after the date in the same manner as set forth in this Article. The right to register for a solid fuel-burning device permit shall be relinquished if no permit is applied for within the time frame as set forth in this Section. There shall be an administration fee of fifty dollars ($50.00) for registration and issuance of a permit. No solid fuel-burning device permit shall be issued unless the device is in existence within the structure prior to September 15, 1985, or is planned for a structure in which there is at a minimum a foundation in place prior to September 15, 1985.

(b) All registrants shall be issued concurrently with the registration of their solid fuel-burning device a solid fuel-burning device permit which shall: identify the solid fuel cook stove, fireplace insert, etc.; identify the number of solid fuel-burning devices in each individually owned unit; and identify the names and addresses of the unit owners or lessees. The original permit shall be valid for three (3) years or until October 15, 1988. Prior to March 1, 1989, the Department will inspect each premises subject to a permit and validate the permit as to full compliance with all provisions of this Article. Upon validation, this permit will remain in effect as long as this Article is in effect; provided, however, that such permits may be subsequently modified or terminated by the Town Council.

(c) Solid fuel-burning device permits shall be maintained with the Department. Permits shall not transfer with, but shall expire upon, the sale, conveyance, transfer or other disposition of the real property for which issued. Permits for which there is no certified solid fuel-burning device in existence on May 17, 1996, shall expire, and may not be sold, conveyed, transferred or otherwise disposed of by the permittee. In the event a permit holder desires to voluntarily relinquish the permit and use of the solid fuel-burning device, the Department shall retire the permit. (Prior code 8.12.030; Ord. 1288 §1, 2008)

Sec. 7-4-40. General rules and regulations.

(a) Only one (1) solid fuel-burning device shall be operated per structure unless specifically exempted within this Article.

(b) It is unlawful for any person to construct, install, maintain, use or operate any solid fuel-burning device within the Town in any manner which is not in compliance with the provisions of this Article.

(c) No solid fuel-burning device shall be operated in an existing unit after the date for registration as provided in Section 7-4-30 above without previously having registered and obtained a solid fuel-burning device permit.

(d) No coal shall be burned after October 15, 1985, unless used as a primary heat source as of October 15, 1985. There shall be a presumption of prior use upon the person who uses a solid fuel-burning device to burn coal submitting an affidavit attesting to this use to the Department on or before October 15, 1985. On or after October 15, 1988, no coal shall be burned by any person within the Town.

(e) After the date for registration as provided in Section 7-4-30 above, only one (1) open fireplace will be allowed in the following establishments: hotel lobby, multiple-unit dwelling lobby, bar/saloon or restaurant. No open fireplaces will be allowed in a new home construction.

(f) Residential and commercial owners of existing fireplaces will be required to retrofit their fireplaces with a certified fireplace insert by October 15, 1988, as defined by the requirements of certification by Colorado Air Pollution Regulation No. 4.

(g) All combustible material for use in a solid fuel-burning device shall be in a dry and burnable condition and safely stored so as not to create a fire hazard.

(h) All permits may be displayed so as to be clearly visible from the public right-of-way.

(i) Wood cook stoves will be exempt from the requirements of this Article, provided that those stoves are used as a primary cooking source in the house and are in place on or before August 15, 1985. This exemption extends only for the lifetime of the wood cook stove owner and is, therefore, not transferable.

(j) Any open fireplace authorized pursuant to Subsection (e) above may be converted to a wood-burning pizza oven; provided that the conversion notwithstanding, the oven, its use and operation shall be subject to any and all regulations in this Article, including but not limited to Subsection 7-4-30(c) above. Any permit which is converted pursuant to this Subsection shall expire upon the termination of the pizza oven operation, and in no event shall the open fireplace use or permit be reinstated. In the event the Town institutes a program for rebates for retiring open fireplace permits, no rebate shall be given to an open fireplace converted to a pizza oven pursuant to this Section. (Prior code 8.12.040; Ord. 1288 §1, 2008)

Sec. 7-4-50. Abatement.

(a) After October 15, 1988, no person within the Town shall operate, construct, use or install a solid fuel-burning device unless he or she has obtained a permit from the Town and the solid fuel-burning device complies as follows:

(1) Such device complies with the particulate emission standard and carbon monoxide standard set forth in Section 7-4-20 above;

(2) There is not more than one (1) solid fuel-burning device per unit or structure; and

(3) A permit has been issued by the Town for the solid fuel-burning device.

(b) A rebate program is hereby established for solid fuel-burning device replacements as required within this Article: A rebate of two hundred dollars ($200.00) for devices replaced from September 15, 1985, to October 15, 1986; a rebate of one hundred fifty dollars ($150.00) for devices replaced from October 15, 1986, to October 15, 1987; and a rebate of one hundred dollars ($100.00) for devices replaced from October 15, 1987, to October 15, 1988. A full rebate of two hundred fifty dollars ($250.00) will be given for total conversion to gas, propane or electric at any time during the September 15, 1985 to October 15, 1988 compliance period. This full rebate is available only to residents who replace the existing permitted solid fuel-burning devices with a nonsolid fuel heat source. (Prior code 8.12.050)

Sec. 7-4-60. Investigation and noncompliance.

(a) The Department shall inspect each solid fuel-burning device as reflected by the records of the Department. The purpose of the inspection shall be to determine that the permit holder is in compliance with the provisions of this Article. If a permit holder or person operating the solid fuel-burning device refuses to consent to the Department's inspection, the Department may, upon a showing of reasonable grounds for the purpose of inspecting solid fuel-burning devices only, apply

for an inspection warrant from the Municipal Court and execute and conduct the inspection under order of the Court.

(b) When the Department has reasonable grounds based upon its investigation or upon written complaints sufficiently demonstrating reasonable grounds that a person has violated this Article, the Department shall issue a notice and order setting forth the alleged violations and the corrective actions that need to be taken. The Department shall allow thirty (30) days for the person to take the necessary corrective actions and comply with this Article.

(c) When a person has not complied with the Department's notice and order, the Department shall issue an order of noncompliance and institute a summons and complaint on behalf of the Town with the Municipal Court for violation of this Article. The Department may also obtain injunctive relief through the Municipal Court in order to enforce this Article. Any order of noncompliance shall be stayed in the event an aggrieved person files a notice of appeal with the Board of Adjustment and Appeals as set forth in Section 7-4-70 below. (Prior code 8.12.060)

Sec. 7-4-70. Appeals to the Board of Adjustment and Appeals.

(a) An appeal of the Department's notice and order of noncompliance shall be filed with the Board of Adjustment and Appeals ("BOAA") in writing no later than thirty (30) days from the date of the Department's notice and order.

(b) The BOAA shall make such rules and regulations as it determines are necessary for the conduct of its hearings under this Article, and according to any other applicable ordinances of the Town and/or laws of the State.

(c) Upon a timely filing of a notice of appeal to the BOAA, the BOAA shall set a hearing date to review the notice and order of the Department. This hearing date shall be on a date certain not to be less than five (5) days nor more than fifteen (15) days from the filing of the date of the notice of appeal. The BOAA shall have the power to subpoena witnesses and a record shall be kept of the hearing. The BOAA shall issue its decision and order upon the appeal within ten (10) days of the date of the hearing.

(d) The BOAA may affirm, modify, rescind or delay the compliance order based upon the following standards:

(1) Planned termination of operation of the noncomplying solid fuel-burning device.

(2) Planned replacement of the noncomplying solid fuel-burning device with a certified device.

(3) A change in the operations of the solid fuel-burning device due to excusable malfunction.

(4) Extreme hardships or life-threatening emergencies.

(e) The Department shall represent the Town before the BOAA and shall have the burden of proof to establish noncompliance by a preponderance of the evidence.

(f) The order of the BOAA shall take effect immediately, and shall contain written findings. The BOAA may grant a greater time, at its discretion.

(g) All appeals from the BOAA shall be to the District Court. (Prior code 8.12.070)

Sec. 7-4-80. Penalties.

Any person, upon conviction of a violation of any provision of this Article, shall be subject to a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code for each separate offense, and may be enjoined from any further or continued violation of this Article. (Prior code 8.12.080; Ord. 1288 §1, 2008)

Sec. 7-4-90. Colorado Department of Public Health and Environment.

The Department is directed to forward this Article to the Division of Administration of the Colorado Department of Public Health and Environment for inclusion in the comprehensive state implementation plan, pursuant to Section 25-7-128(1), C.R.S.; for administration of the local regulations as part of the state plan, pursuant to Section 25-7-111, C.R.S.; and for enforcement of the local regulations as part of the state plan, pursuant to Section 25-7-115, C.R.S. (Prior code 8.12.090; Ord. 1288 §1, 2008)

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ARTICLE 5

Resource Recovery and Refuse

Division 1
Removal of Accumulations

The Town desires to implement Resource Recovery to maximize the recovery and recycling of refuse. As used in this Chapter, Recoverable Resources shall mean Recyclable Materials, Reusable Materials, and materials that can be repurposed.

Sec. 7-5-10. Removal of accumulation required.

Every person who produces or accumulates any refuse and the owner of any premises whereon there is refuse and/or recoverable resources shall remove it from the Town within a reasonable time after its production. A *reasonable time* shall not exceed seven (7) days. (Prior code 7.08.010; Ord. 1351, 2011)

Sec. 7-5-20. Construction sites.

(a) Whenever work which requires a building permit is being performed on any premises, the owner of the premises and the person performing the work shall remove from the Town, within seven (7) days, all refuse which is produced. Within seven (7) days after the completion of the work, the owner of the premises and the person who performed the work shall remove from the Town all refuse on the premises. *Refuse*, as used in this Section, shall also include all plaster, cement or concrete, bricks, cinder blocks, stones, wood, roofing material, wire and metal binding, sacks or any other construction material which will no longer be used in the construction work. Excess or used construction refuse that may be considered recoverable resources for another project in another location should be moved to the alternate location within seven (7) days after completion of the work.

(b) All construction sites must have a designated container that receives refuse attractive to wildlife. This container shall either be a wildlife-resistant container, or contained within a wildlife-resistant enclosure. (Prior code 7.08.020; Ord. 1351, 2011)

Sec. 7-5-30. Town collection authorized.

(a) The Town Manager may, after giving notice in a local newspaper of general circulation, declare that the Town will provide refuse, recoverable resources and/or recyclable material collection service commencing no sooner than thirty (30) days from the date of notice. The Town Manager may declare that such collection service will be provided for commercial premises only, for residential premises only or for both commercial premises and residential premises. The Town Manager may proclaim, in writing, any reasonable collection regulations. The regulations shall have the force of law. The Town Clerk shall keep a copy of the regulations at Town Hall available for public inspection during business hours. The Town Manager may, after giving equal notice, declare the cessation of the Town's provision of any collection service for recoverable resources, recyclable materials, and/or refuse.

(b) The Town Manager shall be deemed to have given the prescribed notice that the Town will provide refuse collection service for residential premises, and that the Town will provide recyclable material collection service to residential and commercial premises. (Prior code 7.08.030; Ord. 1351, 2011)

Sec. 7-5-40. Contract for collection.

The Town Manager may negotiate, on behalf of the Town, a recoverable resources and refuse collection and disposal contract with any qualified person so long as the contract does not give the person the right to exclude other qualified persons from also providing refuse and recoverable resources service within the Town. To become effective, such a contract must be ratified by

resolution of the Town Council. (Prior code 7.08.040; Ord. 1351, 2011)

Sec. 7-5-50. Private removal.

The producer of refuse or the owner or the occupant of the premises on which there is refuse may engage any other person to remove such refuse from the Town, so long as such refuse removal complies with other laws of the Town, County and State. However, except as provided in Section 7-5-60 below, such private removal of refuse shall not relieve any person of any refuse, recoverable resources and/or recyclable material collection charges under Division 3 of this Article for services which are made available to that person under Section 7-5-30 above. (Prior code 7.08.050; Ord. 1351, 2011)

Sec. 7-5-60. Exemption from refuse collection charges.

(a) Application. Any person who contracts to have the refuse on specified premises collected by a professional refuse hauler other than the person providing refuse collection service under contract with the Town under Section 7-5-40 above may apply to exempt the premises from refuse collection charges which would otherwise accrue by contacting the Finance Director or designee and providing his/her address or Town of Telluride Utility Billing Account number and the name and contact for the new service provider.

(b) Issuance. If the Finance Director or designee finds that all of the requirements of Subsection (a) above are fulfilled, s/he shall issue to the premises an exemption from any Town refuse collection service charges.

(c) Revocation. If for any reason the privately contracted professional refuse hauler ceases to provide collection services to fulfill the premises' owner's responsibilities under Section 7-5-10, the Town Manager shall revoke the exemption by mailing notice of revocation to the owner of the premises. Such revocation shall be without prejudice to a new application for exemption. Upon such revocation, the Finance Director shall commence billing the premises for any Town refuse collection service charges accruing under Division 3 of this Article. Such charges shall commence as of the first week when inadequate or no privately contracted professional refuse collection service was provided to the premises.

(d) Senior citizens. A senior citizen, as defined in Section 7-1-10 of this Chapter, who has filed a notarized affidavit with the Finance Director attesting that his or her income is less than twenty thousand dollars ($20,000.00) per year for a single person or less than twenty-five thousand dollars ($25,000.00) per year for a married couple, is exempt from refuse, recoverable resources, and recyclable material collection charges for any residential dwelling which the senior citizen occupies. (Prior code 7.08.060; Ord. 1351, 2011)

Division 2
Collection Requirements

Sec. 7-5-110. Applicability.

Refuse collection service shall be provided in the Town pursuant to this Article. (Prior code 7.12.010; Ord. 1288 §1, 2008)

Sec. 7-5-120. Containers required.

(a) Containers shall be provided by the owner or occupant of all premises on which recoverable resources and refuse are produced, unless containers are provided by the Town or its authorized collection agent.

(b) Wildlife-resistant refuse containers. All refuse containers, regardless of size, that receive refuse that is attractive to bears or other wildlife shall be either: (1) an approved wildlife-resistant refuse container; or (2) a refuse container that is stored within a building, house, garage or approved wildlife-resistant enclosure, both which shall be secured with a locking mechanism at all

times except when empty or when refuse is being deposited.

(c) The Town may proceed against the owner and/or occupant of the premises personally for the unpaid balance due for wildlife-resistant containers plus ten percent (10%) for administrative costs plus interest. Unpaid charges shall constitute a lien on the real property to which containers were made available. If ownership of the property changes, the new owner shall be deemed to have had notice of the lien for all unpaid charges. The lien shall survive the transfer of ownership. The Town may enforce the lien by collecting those charges against the real property of the new owner. If the Town chooses to enforce the lien, it shall proceed under the provisions of Section 4-1-90 of this Code.

(d) Special event resource recovery and refuse disposal. Outdoor special event sites shall be kept free from the accumulation of recoverable resources and refuse attractive to wildlife. Recoverable resources and refuse must be collected from the grounds at the close of each day's activities and shall be deposited in wildlife-resistant containers or enclosures or be removed to an appropriate recovery or disposal site.

(e) Reusable Materials Containers ("RMC") may be provided only by the Town at location(s) designated by the Town Council upon recommendation by the Town Manager. No nonreusable material, refuse, special refuse, garbage, compost, or recyclable materials shall be placed in any RMC or deposited or permitted to fall from any person or vehicle on any public area in the vicinity of the RMC. Reusable Materials shall not be deposited in such a manner that a hazard is created. All Reusable Materials must be fit within the RMC. No overflow of Reusable Materials beyond the RMC is allowed. (Prior code 7.12.020; Ord. 1261 §1, 2007; Ord. 1288 §1, 2008; Ord. 1302, 2009; Ord. 1351, 2011)

Sec. 7-5-130. Non-Dumpster container standards.

The use of poly-carts as refuse containers is hereby mandated for all residential premises. Poly-carts shall not exceed ninety-six (96) gallons in capacity. Poly-carts, when used as wildlife-resistant refuse containers must meet the definition of wildlife-resistant refuse container contained in Section 7-1-10 of this Chapter, and shall be maintained in clean condition and good repair by the owner or the occupant of the premises served. Poly-carts shall have the street address and unit number of each entity using the poly-cart permanently affixed to the container in legible white letters and digits two (2) inches in height. The Town Manager may grant an exemption to this standard in extenuating circumstances. (Prior code 7.12.030; Ord. 1288 §1, 2008; Ord. 1293 §1, 2008; Ord. 1351, 2011)

Sec. 7-5-140. Dumpster standards.

Every Dumpster shall be:

(1) Made of metal, including the lid;

(2) Lockable against wildlife;

(3) Maintained in clean condition and good repair;

(4) Freely maneuverable so that the collector can empty it without unreasonable effort;

(5) Clearly marked with the street address and unit number of each entity using the Dumpster permanently or temporarily affixed to the Dumpster in legible letters and digits two (2) inches in height; and

(6) Placed and kept on a concrete pad or paved refuse pad as required by Section 7-5-150 below. Temporary construction Dumpsters are exempt from this requirement. (Prior code 7.12.040; Ord. 1293 §1, 2008)

Sec. 7-5-150. Dumpster pads.

(a) Required. Every person who owns a Dumpster, and every person who owns, occupies or has control over any premises whereon a Dumpster is located, shall place and keep the Dumpster on a dumpster pad which is located as required in Subsection (b) below. The dumpster pad shall be a concrete or paved level surface which is large enough so that the Dumpster rests entirely within its circumference.

(b) Location. The dumpster pad required in this Section shall be located entirely on private property near an alley such that the Town's contracted resource recovery and/or refuse collector, following a collection route along the alley, can without unreasonable effort collect the recoverable materials and/or refuse from the Dumpster placed thereon. No such dumpster pad shall be located such that any Dumpster placed thereon might obstruct a passageway in violation of Section 10-3-10 of this Code.

(c) Enforcement. If the Building Official or Town Marshal finds that any Dumpster is either located so as not to be entirely on a dumpster pad or so as to be on a dumpster pad which is unlawfully located, he or she shall affix to the Dumpster a written notice requiring that the violation be corrected within forty-eight (48) hours. If the violation has not been corrected within said forty-eight (48) hours, the Town Manager shall order the Director of Public Works to remove the Dumpster from wherever it is located and to relocate it in any place specified by the Town Manager or Town Marshal for the storage of impounded Dumpsters. For every Dumpster impounded under this Subsection, a fee of one hundred dollars ($100.00) shall be charged for the removal of the Dumpster, and a fee of twenty dollars ($20.00) shall be charged for each day or part thereof during which the Dumpster remains impounded or in the Town's custody. No Dumpster impounded under this Subsection shall be released from impoundment or the Town's custody until the fees set out in this Subsection have been paid in full. (Prior code 7.12.050; Ord. 1351, 2011)

Sec. 7-5-160. Recoverable resources and refuse placement on collection days.

Poly-carts, recycling receptacles, wildlife-resistant refuse containers, and recoverable resources, which are not Dumpsters, shall be placed by 7:30 a.m. on the day of collection at the collection location. Such containers, poly-carts and recycling receptacles shall be removed by 7:30 p.m. of the collection day. The collection route shall be determined by the Town Manager and the contract refuse or recyclable material collector. (Prior code 7.12.060; Ord. 1351, 2011)

Sec. 7-5-170. Tree trimmings and yard clippings.

Persons desiring the pickup of tree trimmings or yard clippings shall place the clippings inside refuse containers on pickup days. Residents are encouraged to compost tree trimmings and yard wastes and not dispose of them as refuse. (Prior code 7.12.070)

Sec. 7-5-180. Schedule.

(a) The Town Manager, after giving notice in a local newspaper of general circulation not less than seven (7) days in advance, may announce the establishment or changing of:

(1) Recoverable resources and refuse collection days; and

(2) The number of collections per week.

(b) The Town Manager may announce different days and numbers of collection days per week for different classes of recoverable resources and refuse collection customers (for example, those on residential premises or commercial premises, or those having different numbers or sizes of containers, receptacles or Dumpsters). (Prior code 7.12.080; Ord. 1351, 2011)

Sec. 7-5-190. Separation of recyclable materials.

(a) No refuse, rubbish, compost or trash shall be placed in any recycling receptacle provided by the Town or its designated recyclable material collection agent.

(b) Separation of recyclable materials is voluntary; however, the residential or commercial premises shall be charged for the recyclable material collection service.

(c) Recyclable materials lawfully placed at curbside for collection in any recycling receptacle provided by the town are the property of the Town or its designated recyclable material collection agent.

(d) Nothing in this Section is intended to prevent any person from donating or selling recyclable materials from his or her refuse.

(e) It is unlawful for any person to place, locate, establish, maintain, leave or otherwise make available any recycling receptacle which is in public view for the purpose of collecting discarded recyclable materials; provided, however, that, in the case of charitable undertakings by a bona fide nonprofit corporation or governmental entity, the Town Manager shall be authorized to approve the temporary location and use of recycling receptacles. (Prior code 7.12.090; Ord. 1288 §1, 2008)

Division 3
Collection Charges

Sec. 7-5-310. Applicability.

When the Town is providing collection service for recoverable resources and/or refuse pursuant to Sections 7-5-40 and 7-5-50 of this Article, the provisions set out in this Division are in effect. (Prior code 7.16.010; Ord. 1351, 2011)

Sec. 7-5-320. Mandatory payment.

Irrespective of their use, any premises on which any recoverable resources and/or refuse is generated, and for which recoverable resource or refuse collection service is made available, are liable to the Town for recoverable resources and refuse collection service charges, even if such collection services are not used, unless the premises have an exemption under Section 7-5-60 of this Article for refuse collection, in which case there shall be no liability for refuse collection charges. Any premises not having such an exemption, and for which recoverable resources and refuse collection service is made available, are liable for recoverable resources and refuse collection service charges if there is any dwelling or any other building on the premises which is required to have a certificate of occupancy, irrespective of whether or not the dwelling or building is continuously occupied. (Prior code 7.16.020; Ord. 1288 §1, 2008; Ord. 1351, 2011)

Sec. 7-5-330. Liability of owner and occupant.

The record owner of the premises is primarily liable to the Town for recoverable resources and refuse collection charges. The occupant of the premises, if different from the owner, is also liable. (Prior code 7.16.030; Ord. 1351, 2011)

Sec. 7-5-340. Rate and penalty schedule.

The schedule of rates, charges and penalties for recoverable resources and refuse collection services shall be established and amended by resolution of the Town Council. (Prior code 7.16.050; Ord. 1351, 2011)

Sec. 7-5-350. Billing.

Recoverable resources and refuse collection charges shall be billed for two-month periods, in arrears. Bills are payable not more than thirty (30) days from the statement date which appears on the bill. (Prior code 7.16.060; Ord. 1351, 2011)

Sec. 7-5-360. Interest.

(a) Unpaid collection charges shall accrue interest, compounded daily at a rate of eighteen percent (18%) per year, beginning with the thirty-first day, the date appearing on the bill being counted as the first day.

(b) The Finance Director shall, not less than once a year, evaluate the interest rate set in Subsection (a) above and shall recommend to the Town Council an increase or decrease in the rate based on prevailing local finance charges. The Town Council may, by resolution, alter that interest rate. (Prior code 7.16.070)

Sec. 7-5-370. Deduction by tenant from rent.

In order to encourage prompt payment, if the owner of any premises fails to pay recoverable resources and refuse collection charges by the date they are due, the tenant of those premises may withhold from rent due to the owner an amount equal to the refuse collection charges due to the Town, if the tenant pays the amount to the Town. The owner shall not take any action to collect from a tenant any such amount withheld from rent and paid to the Town to satisfy the owner's recoverable resources and refuse collection charges bill. (Prior code 7.16.080; Ord. 1351, 2011)

Sec. 7-5-380. Delinquency policy.

If the bill for collection services has not been paid by the due date, the Town may elect any one (1) or more of the remedies set out in this Division, as well as any others that are available under the law. The Town Council declares that the remedy set out in Section 7-5-410 below for terminating collection service is the least desirable due to administrative costs and due to the potential health hazards and the detriments to aesthetics from possible accumulation of uncollected recoverable resources and refuse. (Prior code 7.16.090; Ord. 1351, 2011)

Sec. 7-5-390. Personal collection.

The Town may proceed against the owner and/or occupant of the premises personally for the unpaid balance plus ten percent (10%) for administrative costs plus interest. (Prior code 7.16.100)

Sec. 7-5-400. Property lien.

(a) Unpaid delinquent collection charges shall constitute a lien on the real property to which collection service was made available. If ownership of the property changes, the new owner shall be deemed to have had notice of the lien for all unpaid collection service charges. The lien shall survive the transfer of ownership. The Town may enforce the lien by collecting those charges against the real property of the new owner. If the Town chooses to enforce the lien, it shall proceed under the provisions of Section 4-1-90 of this Code.

(b) The lien in Subsection (a) above is a first and prior lien, taking priority over all other liens except preexisting government tax liens. (Prior code 7.16.110; Ord. 1288 §1, 2008)

Sec. 7-5-410. Service termination.

(a) If the Town Manager believes that termination of service will result in the prompt payment of delinquent charges and the resumption of service, the Town may proceed to terminate service as set out in this Section. The Town shall, by mail or personally, give notice of termination of services to both the owner and occupant of the premises. The notice shall state:

(1) The amount due, plus an additional twenty dollars ($20.00) for collection costs;

(2) The date of termination, which shall be fifteen (15) days from the issuance of the notice of termination; and

(3) That a twenty-five dollar ($25.00) fee will be added for terminating service, and

another twenty-five-dollar ($25.00) fee added for recommencing service.

(b) If, by the date set for termination, the Town has not received the complete payment of amounts due, the Town may then terminate collection service and add the fees and surcharge contained in Paragraph (a)(3) above to the outstanding bill. Recoverable resources and refuse collection service charges shall continue to accrue during such discontinuation of service for delinquency.

(c) The Town shall promptly reinstate collection service upon the complete payment of the delinquent bill, fees, twenty dollars ($20.00) for collection costs and accrued interest. (Prior code 7.16.120; Ord. 1288 §1, 2008; Ord. 1351, 2011)

Division 4
Nuisances and Offenses

Sec. 7-5-510. Uncontained recyclables or refuse.

(a) Any accumulation of recyclables or refuse which is not enclosed as described in Sections 7-5-120 through 7-5-150 is a public nuisance under Article 1 of this Chapter if:

(1) Such an accumulation is visible or can be smelled from any place not on the immediate premises, and the sight or smell of such accumulation would be disagreeable, displeasing or sickening to a reasonable observer; or

(2) Such an accumulation, by attracting animals, insects or vermin, or by providing conditions favorable to the propagation of disease, constitutes a hazard to the health or safety of the community.

(b) Any aggrieved citizen of the Town may commence an action to abate such a public nuisance under Article 1 of this Chapter.

(c) No owner or occupant of any premises shall permit thereon any accumulation of recoverable resources or refuse which constitutes a public nuisance. Each day such an accumulation is permitted constitutes a separate offense. (Prior code 7.20.010; Ord. 1351, 2011)

Sec. 7-5-520. Compost.

Nothing in Section 7-5-510 above prohibits compost accumulations. If, however, from any place outside of the immediate premises, the smell or sight of any decaying matter in compost would offend a reasonable person, that compost shall be deemed garbage and hence refuse as defined in Section 7-1-10 of this Chapter. Any compost which is deemed to be garbage is subject to the provisions of Sections 7-5-510 and 7-5-530 herein of this Article. (Prior code 7.20.020)

Sec. 7-5-530. Accumulation of refuse.

No person shall cause or permit the accumulation of any refuse or recyclable materials or recoverable resources on any premises except if enclosed in a receptacle as is described in Sections 7-5-120 through 7-5-150, or bundled as described in Section 7-5-170 of this Article. Each day of such accumulation constitutes a separate offense. The owner of any premises shall be deemed to have permitted the accumulation of all refuse or recyclable material or recoverable resources which is found thereon. (Prior code 7.20.030; Ord. 1351, 2011)

Sec. 7-5-540. Failure to remove.

No person who owns or occupies premises whereon there is any recoverable resources and refuse and no actual producer of any recoverable resources or refuse shall fail to remove the recoverable resources and/or refuse from the Town, as required by Sections 7-5-10, 7-5-20 and 7-5-190 of this Article. It is not a defense to a prosecution under this Section that the recoverable resources or refuse was enclosed in an appropriate container. (Prior code 7.20.040; Ord. 1351, 2011)

Sec. 7-5-550. Failure to use containers.

No person shall fail to provide, load and maintain containers as specified in Sections 7-5-120, 7-5-130 and 7-5-140 of this Article, or fail to keep them closed and secured with a locking mechanism as required by this Article. No overflow is allowed. At the owner's expense, the Town may order a special collection if recoverable resources and/or refuse is not contained as required under this Article. (Prior code 7.20.050; Ord. 1351, 2011)

Sec. 7-5-560. Improper disposal of special refuse or hot ashes.

No person shall place any special refuse or hot ashes in any recoverable resources or refuse container which is placed for pickup by any recoverable resources or refuse collection service. (Prior code 7.20.060; Ord. 1351, 2011)

Sec. 7-5-570. Burning refuse.

No person shall burn any recoverable resources or refuse within the Town limits, unless:

(1) The refuse is a paper or wood product and is burned in a wood stove; or

(2) The person has a permit from the Town Manager to burn the refuse. (Prior code 7.20.070)

Sec. 7-5-580. Construction site refuse.

The Building Official may, from time to time, inspect premises whereon work is being performed pursuant to a building permit. If the Building Official reasonably believes that any recoverable resources or refuse on such premises would be an unpleasant sight to a reasonable observer viewing it from any place not on the premises, or constitutes a hazard to the health or safety of any person, the Building Official shall notify, in writing, the owner and/or person generating or accumulating the recoverable resources or refuse to have it removed from the Town within seven (7) days. No person so notified shall fail to cause the removal within the time provided. Each day of such failure constitutes a separate offense. If not removed within seven (7) days of the receipt of the written notice, the accumulation shall constitute a public nuisance under Article 1 of this Chapter. (Prior code 7.20.080; Ord. 1351, 2011)

Sec. 7-5-590. Disturbing recoverable resources or refuse containers.

(a) No person, other than the user or authorized collector, shall open, molest, remove, handle, pilfer or otherwise disturb any recoverable resources or refuse container, or any contents thereof.

(b) Each person who is provided a recoverable resources container by the Town or its authorized collector shall use due care not to damage such container, and shall not remove such container from the premises. (Prior code 7.20.100; Ord. 1351, 2011)

Sec. 7-5-600. Failure to notify of cause for exemption revocation.

No person, who is liable under Section 7-5-330 of this Article for refuse collection service charges made available to any premises which have an exemption therefrom under Section 7-5-60 of this Article, shall knowingly fail to notify the Finance Director of any grounds for revocation of the exemption in violation of Subsection 7-5-60(c). (Prior code 7.20.110)

Sec. 7-5-610. Improper Dumpster placement.

No person who is subject to the requirements of Subsection 7-5-150(a) of this Article shall fail to comply with any of the requirements of Subsection 7-5-150(a) or (b). (Prior code 7.20.120)

Sec. 7-5-620. Fines, penalty.

(a) It shall be unlawful for any person to violate any provision of this Article.

(b) Any person who is found to have violated, or who acknowledges violating any provision of this Article, except violations of Sec. 7-5-510 and Se. 7-5-550, shall be fined an amount not less than shown on the following schedule, and not to exceed the maximum fine as set forth in Sec. 1-4-10(a)(2) of this Code:

(1) First offense within twelve (12) successive calendar months: fifty dollars ($50.00).

(2) Second offense within twelve (12) successive calendar months: two hundred fifty dollars ($250.00).

(3) Third offense within twelve (12) successive calendar months: Summons. (Prior code 7.20.130)

(c) Any person who is found to have violated, or who acknowledges violating any provision of Sec. 7-5-510 and Sec. 7-5-550 of this Article, shall be fined an amount not less than shown on the following schedule, not to exceed the maximum fine as set forth in Sec. 1-4-10(a)(2):

(1) First offense within twelve (12) successive calendar months: two hundred fifty dollars ($250.00).

(2) Second offense within twelve (12) successive calendar months: five hundred dollars ($500.00).

(3) Third offense within twelve (12) successive calendar months: Summons, upon conviction mandatory minimum fine five hundred dollars ($500.00) not to exceed one thousand dollars ($1,000.00). (Ord. 1383, 2013)

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ARTICLE 6

Animals

Division 1
General Provisions

Sec. 7-6-10. Definitions.

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

Abandon means the leaving of an animal without adequate provisions for the animal's proper care by its owner, the person responsible for the animal's care or custody or any other person having possession of such animal.

Animal means any living nonhuman creature.

At large means any animal where the person responsible for the animal is not physically present or is not able to observe the animal continuously.

Bodily injury means any physical injury that results in severe bruising, muscle tears, skin lacerations, fracture of any bone or any similar injury.

Command leash means voice and sight control over a dog exercised by the Owner such that the dog is within the owner's sight and responds promptly to voice command.

Companion animal means domestic dogs, domestic cats, small pet birds and other domesticated species which are not livestock or wildlife.

Defecate with respect to any dog means to defecate upon the property of any person other than that of the owner of such dog.

Harass means to endanger, worry, impede, annoy, pursue, disturb, molest, rally, concentrate, harry, chase, drive, herd or torment wildlife.

Hitch means to attach an animal to an object, including but not limited to a building, fence, post or tree.

Leash means any durable material not exceeding six (6) feet in length.

Livestock means cattle, swine, sheep, goats, llamas, horses, mules, donkeys and other animals traditionally used in the farm or ranch production of food, fiber or other agricultural products.

Mistreat means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

Neglect means failure to provide food, water, protection from the elements or other care generally considered to be normal, usual and accepted for an animal's health and well-being consistent with the species, breed and type of animal.

Noncompanion animal means any animal other than a companion animal.

Owner means any person who assumes charge, custody, control or responsibility for an animal for any length of time, including but not limited to the owner of the animal, the person responsible for the animal at the time of any alleged violation of this Article and, if different, the person in whose name the animal is licensed.

Peace officer means the Town Marshal or any of his or her deputies and any Code Enforcement Officer employed by the Town.

Provocation means purposeful enticement to anger.

Serious bodily injury means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of

death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks or fractures.

Threaten or *threatening behavior* with respect to any dog or person means to demonstrate tendencies that would cause a reasonable person to believe that the dog may inflict bodily injury upon or cause the death of any person or companion animal, without ample provocation.

Trash or *trashing* with respect to any dog means any dog that knocks over or gets into any trash, refuse or recycling container.

Vicious or *vicious behavior* means to inflict bodily or serious bodily injury upon or cause the death of a person or companion animal, without ample provocation.

Wildlife means wild vertebrates, mollusks and crustaceans, whether alive or dead, including any part, product, egg or offspring thereof, that exist as a species in a natural wild state. (Prior code 6.04.010)

Sec. 7-6-20. Mens rea and strict liability.

Unless a provision specifies a stricter standard, in all actions to enforce the provisions of this Article prohibiting any conduct, the conduct is unlawful or strict liability applies, regardless of the defendant's mental state. (Prior code 6.04.020)

Sec. 7-6-30. Affirmative defense.

An affirmative defense to any action under this Article shall be that the defendant does not own the animal which is the subject of a violation or offense under this Article and was not the responsible person for the animal which was the subject of such violation or offense at the time the violation or offense was committed. (Prior code 6.04.030)

Division 2
Care and Keeping of Animals and Impoundment

Sec. 7-6-110. Noncompanion animals.

No person shall keep, board or care for any noncompanion animal within the Town. Notwithstanding the foregoing, the Town Manager may authorize the keeping, board and care of any noncompanion animal participating in a special event for the duration of such event. These restrictions shall not prohibit the occasional transport or riding of livestock on streets within the Town as long as such activity does not occur in restricted areas such as the Town Park system, and as long as such activity does not create any nuisance and any animal waste resulting from such activity is immediately removed. The transport or riding of livestock shall follow applicable traffic regulations. (Ord. 1357, 2011; Prior code 6.08.010)

Sec. 7-6-120. Care of confined animals.

(a) Except as authorized by law, no animal shall be confined without an adequate supply of food and water. If any animal is found to be confined without adequate food or water, it shall be lawful for any peace officer to enter into and upon any area, building or vehicle where such animal is confined and supply it with adequate food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.

(b) The peace officer shall not be liable in any action for such entry.

(c) Notice of the entry and care shall be given by posting such notification at an entrance to, or at a conspicuous place upon, the area, building or vehicle where such animal is confined.

(d) If the animal is not cared for by a person other than a peace officer within twenty-four (24) hours of the posting of said notification, such animal shall be presumed to have been abandoned and that the animal's life or health is endangered. (Prior code 6.08.020)

Sec. 7-6-130. Protection of mistreated, neglected or abandoned animals.

(a) No animal shall be mistreated or neglected to such a degree or abandoned in any circumstance so that the animal's life or health is endangered.

(b) A peace officer may take charge of, provide for or remove from the area, building or vehicle where found any animal found to be mistreated or neglected to such degree that the animal's life or health is endangered, or abandoned in any circumstance. The peace officer shall petition the Municipal Court for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(c) Notice.

(1) The peace officer shall cause to be served upon the owner:

a. If the owner is known and residing within the jurisdiction wherein the animal is found, written notice by any method, including posting at least five (5) days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given; or

b. If the owner is known but residing out of the jurisdiction where such animal is found, written notice by any method, including posting at least five (5) days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(2) If the owner is not known, the peace officer shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five (5) days prior to the hearing.

(d) Such hearing shall be held promptly after the date of the seizure of the animal.

(e) Action by Court.

(1) The peace officer may, in his or her discretion, provide for such animal until judgment by the Court.

(2) The Court may order the animal sold and the proceeds deposited in the registry of the Court pending a decision.

(3) The Court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner after all reasonable expenses of any food, shelter and care provided by the Town have been paid; except that, if such expenses are not paid within ten (10) days of a court order adjudging the owner a person able to adequately provide for such animal and a person fit to own the animal, the peace officer may, in his or her discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter or humanely destroying it as deemed proper by the peace officer.

(4) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the Town's general fund.

(5) At least six (6) days prior to disposing of the animal, the Town Marshal shall provide written notice to the owner at his or her last

known address of the time and place of the disposition of the animal.

(f) Disposition of animal.

(1) If the owner is adjudged by the Court to be a person unable to adequately provide for the animal or a person not fit to own the animal, then the Court shall order that the animal be:

a. Sold by the peace officer at public auction;

b. Placed for adoption in a suitable home;

c. Given to a suitable animal shelter;

d. Humanely destroyed as deemed proper by the Court; or

e. Disposed of in any other manner as deemed proper by the Court.

(2) In no case shall the person adjudged unable to adequately provide for the animal or unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(3) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the Town's general fund.

(g) A peace officer may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment or cruelty, which act occurs in his or her presence. (Prior code 6.08.030)

Sec. 7-6-140. At large.

No animal shall be at large within the Town. Peace officers are authorized to impound any animal at large. Notice of such impoundment shall be provided as required in Section 7-6-180 below. It shall not be a violation of this Section for an animal to be at large so long as the animal is lawfully confined in a building or vehicle or on the real property belonging to, or rented by, or with express permission of Owner. (Ord. 1305, 2009; Prior code 6.08.040)

Sec. 7-6-150. Hitching.

(a) Generally.

(1) No person shall hitch any animal other than a companion animal, except when such noncompanion animal is participating in a special event for which necessary permits, if any, have been obtained from the Town. In the case of noncompanion animals participating in an authorized special event, such animals may only be hitched within areas designated for hitching by the Town Manager and in accordance with any regulations promulgated by the Town Manager.

(2) No person shall hitch to public property, in a public area or to or on private property belonging to any person other than the owner of the dog, any dog that has been found to be a vicious dog as defined in this Article.

(3) No person shall hitch to public property, in a public area or to or on private property belonging to any person other than the owner of the animal, any animal in such a manner as to expose any person to the menace of an unsupervised animal.

(4) No person shall hitch any animal to a vehicle and leave such animal unattended for any period of time.

(b) Public areas.

(1) No person shall hitch any animal to any fire hydrant or in any fire lane, marked emergency access area or public road, or in such a manner that the animal can stray into

any fire lane, marked emergency access area or public road.

(2) No person shall hitch any animal to public property or in a public area in such a manner as to disrupt pedestrian, bicycle or vehicular traffic.

(3) No person shall hitch any animal to public property or in a public area where such animal creates a disturbance or becomes a nuisance by barking, fighting or engaging in other disruptive conduct.

(4) No person shall hitch any animal for more than two (2) hours in a twelve-hour period.

(c) Private property. No person shall hitch any animal to or on private property, other than private property belonging to the owner of the animal, without the consent of the owner of such private property.

(d) Puppy parking areas. Hitching an animal in a designated "Puppy Parking" area shall constitute legal hitching in compliance with all requirements of this Section, so long as no person shall hitch any animal for more than two (2) hours in a twelve-hour period. (Ord. 1305, 2009; Prior code 6.08.050)

Sec. 7-6-160. Impoundment facility.

The Town shall establish and maintain an impoundment facility where animals that have been picked up by a peace officer shall be held and cared for in accordance with the provisions of Section 7-6-120 above until the animal is released to its owner or until disposed of as provided in Section 7-6-200 below or otherwise disposed of as ordered by the Municipal Court. (Prior code 6.08.060)

Sec. 7-6-170. Authority to impound animals.

(a) Improperly hitched animals and animals at large. Peace officers are authorized to impound any animal hitched in a manner which violates Section 7-6-150 above or any animal at large in violation of Section 7-6-140 above.

(b) Barking, trashing or threatening dogs. Peace officers are authorized to impound any dog which is barking, trashing or engaging in threatening behavior, in violation of Section 7-6-350 of this Article, unless the owner of the dog immediately exercises sufficient control over the dog so that the officer is assured that such behavior will not continue.

(c) Vicious dogs. Peace officers are authorized to impound any dog which engages in vicious behavior in violation of Subsection 7-6-350(h) of this Article. If the peace officer reasonably believes that he or she cannot impound the dog without suffering bodily or serious bodily injury, and determines that the dog represents a serious and immediate threat to public safety and welfare, the officer is authorized to use any tranquilizer guns or other suitable devices to subdue or destroy the dog. (Prior code 6.08.070)

Sec. 7-6-180. Notice of impoundment.

The Town Marshal's Department shall notify the owner of an impounded animal, if known, of the impoundment as soon as practicable after the animal is impounded. Notice may be given by any means reasonably calculated to provide actual and immediate notice to the owner. (Prior code 6.08.080)

Sec. 7-6-190. Pickup and impound fees.

Pickup fees shall be incurred immediately upon pickup, and impound fees shall accrue at a daily rate. Fees for pickup and impoundment of animals shall be established, and from time to time modified, by resolution of Town Council. (Prior code 6.08.090)

Sec. 7-6-200. Release and disposition of impounded animals.

(a) No impounded animal shall be released without payment of all pick up and impound fees unless otherwise ordered by the Municipal Court. Any dog impounded for a violation of any provision of this Article shall be released only after payment of all pick up and impound fees have been paid, licensing requirements satisfied and a complaint served upon the animal owner, unless otherwise directed by the Chief Marshal or ordered by the Municipal Court.

(b) Upon payment of required pickup fee and service of the complaint, in the event of a violation of any provision of this Article, upon the animal owner, the impounded animal shall be released to the owner, except as set forth in Subsection (c) below.

(c) No dog impounded as a vicious dog shall be released prior to a determination by the Town Marshal's Department that the owner of the dog can and will exercise sufficient control over the dog so that the dog presents no danger to persons or companion animals. No dog impounded as a vicious dog shall be released until a restitution bond in the amount of $500.00 is posted for release of the dog in addition to the release requirements in (a) above, unless otherwise directed by the Chief Marshal. If it is determined that the dog shall not be released, the owner may request a hearing before the Municipal Court. Such hearing shall be held no later than seven (7) days after the dog is impounded. If the Court determines that the owner of the dog cannot exercise sufficient control over the dog, the Court may order the dog banished from the Town or may order the dog destroyed by lethal injection administered in a humane manner.

(d) Except as set forth in Subsection (c) above, if the Town Marshal is unable to locate the owner of an impounded animal after five (5) days, the Town shall make reasonable efforts to find a home for the animal. If such efforts fail, the Town may destroy the animal by lethal injection administered in a humane manner. (Ord. 1305, 2009; Prior code 6.08.100)

Sec. 7-6-210. 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, attraction or enticement to wildlife.

(b) Between the dates of April 15 and November 15 of any calendar year, all bird feeders must be suspended on a cable or other device so that they are inaccessible to bears and the area below the feeders must be kept free from the accumulation of seed debris. (Prior code 6.08.110)

Division 3
Dogs

Sec. 7-6-310. Licensing requirements.

(a) The owner of any dog which is six (6) months of age or older shall license such dog:

(1) For current residents, annually prior to March 1;

(2) For new residents, within thirty (30) days after relocating temporarily or permanently to the Town; or

(3) For current and new residents, within thirty (30) days after the time the dog reaches six (6) months of age.

(b) Prior to issuance of a license, the owner shall present certification that the dog has a current rabies inoculation. (Prior code 6.12.010)

Sec. 7-6-320. Purchase of licenses and fee.

(a) Licenses may be purchased from the Town.

(b) The license fee shall be established and, from time to time modified, by resolution of the Town Council.

(c) Prior to issuance of a license, the owner shall pay the license fee to the Town.

(d) Prior to the issuance of a license for any dog, the owner shall pay all outstanding default judgments for violations of this Article. (Prior code 6.12.020)

Sec. 7-6-330. Display of license tags.

(a) No owner shall knowingly permit a licensed dog to be without the issued license tag displayed attached to the dog's collar.

(b) If a license tag is lost or destroyed, the owner shall immediately obtain a duplicate tag from the Town Marshal's Department at a replacement cost to be determined by the Town Manager.

(c) No owner of a dog shall allow such dog to display a license tag that is expired, or to wear an imitation or counterfeit license tag. (Prior code 6.12.030)

Sec. 7-6-340. Dogs in estrus.

Any unspayed dog in the stage of estrus (heat) shall be confined in a house or secure enclosure or the unspayed dog must be physically restrained by a competent person by the use of a hand-held leash. Any unspayed dog that is in the state of estrus and is not properly confined or restrained shall be deemed a public nuisance. Such a public nuisance shall be abated pursuant to Section 7-1-60 of this Chapter; however, the abatement remedies shall be limited to confinement of the dog at a boarding kennel, a veterinary hospital or the animal shelter. The owner of the dog shall pay all expenses incurred as a result of confinement. (Prior code 6.12.035)

Sec. 7-6-350. Prohibited activities.

(a) Barking. No owner of any dog shall permit such dog, by loud and persistent or habitual barking, howling or yelping, to disturb any person in the Town.

(b) Defecating (failure to remove). No owner of any dog shall permit such dog to defecate, without immediately removing, upon a common thoroughfare, street, sidewalk, play area, park, any other public property or any private property when permission of the owner or tenant of such property has not been obtained. When any dog defecates without permission upon any private property other than that of the owner, including common areas of condominiums, townhouses, duplexes or apartments, it shall be the duty of the owner of such dog to immediately remove and properly dispose of such feces as outlined in Subsection (d) below.

(c) Cleanliness of premises. The accumulation of animal feces compromises public health and constitutes a threat to public safety. Accumulation of feces on any premises to the extent that it creates an unsanitary, offensive or unhealthy condition shall be a nuisance that may be abated pursuant to Article 1 of this Chapter.

(d) Disposal of feces. It is unlawful for any person to place animal feces in storm sewers or upon the property of another, or to dispose of such feces in any manner except by depositing it in a container normally used for garbage or specifically for dog feces.

(e) Unlawful to possess unvaccinated dog. It is unlawful for any person to own, keep, harbor, possess or bring into the Town any dog six (6) months of age or older which has not been vaccinated against rabies by a licensed veterinarian or which cannot be identified as having a current certification of vaccination. Rabies tags must be affixed to the collar or harness of any dog; however, if a dog has a current Town of Telluride dog license that shall be evidence also of current rabies inoculation in which case the rabies tag

does not need to be affixed. No person shall affix to the collar or harness of any dog, or permit to remain affixed, a tag evidencing inoculation for any other animal.

(f) Trashing. No owner of any dog shall permit such dog to trash or to engage in trashing behavior.

(g) Threatening behavior. No owner of any dog shall permit such dog to threaten any person or companion animal without ample provocation.

(h) Vicious behavior. No person shall own, keep or harbor a vicious dog.

(i) Motorized exercise. No owner or other person accompanying a dog shall permit a dog to run along side, in front of or behind a moving motorized vehicle with or without attachment by leash or other tether. (Ord. 134, 2010)

j. Means of Removal. No Owner shall appear with a dog upon the public ways or within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement. This section shall not apply to a blind person while walking his or her guide dog. (Ord. 1339, 2010; Ord. 1305, 2009; Ord. 1288, 2008; Prior code 6.12.040)

Sec. 7-6-360. Leashing required.

(a) Leashes. Unless the dog is hitched in a manner that does not violate any provision of Section 7-6-150 of this Article, no owner of any dog shall fail to keep the dog on a leash within Town Park or in the area between Columbia Avenue and Pacific Avenue. In addition, there shall be a seasonal requirement, in effect only during the months and limited to the hours of operation of the Telluride Ski Area, to keep a dog on a leash within the Telluride Gondola Plaza Area and the Lift 7 Base Area. For purposes of this Section and the requirement to keep a dog on a leash, the *Telluride Gondola Plaza Area* is defined as that 1.78-acre lot at the base of Lift 8 and the Gondola, also known as the Gondola Terminal Station, except that there shall be no prohibition for an unleashed dog to traverse the Telluride Gondola Plaza Area so long as the unleashed dog stays within the ten-foot-wide area that is the River Trail. For purposes of this Section and the requirement to keep a dog on a leash, the *Lift 7 Base Area* is defined as that 9.831-acre lot at the base of Lift 7, also known as Tract Y, Backman Village Subdivision. A dog is not on a leash unless the leash is attached to the dog and held by the owner of the dog.

(b) Command leashes. No owner of a dog shall fail to keep such dog on a command leash when the dog is anywhere within the Town except those places specified in Subsections (a) and (c) of this Section.

(c) Premises of owner. It shall not be a violation of this Section for an owner of a dog to allow such dog to be unleashed on property belonging to, or rented by, such individual.

(d) Waiver of provisions. Any provisions of this Section may be waived by the Town Manager for special events and/or on an experimental basis. The Town Manager may promulgate and implement interim regulations to supersede the provisions of this Section during any such special event and/or experiment. (Prior code 6.12.050; Ord. 1258 §1, 2006)

Sec. 7-6-370. Canine trespass.

No owner of a dog shall allow the dog to enter private property, other than property owned or rented by such individual, without the permission of the person who owns or controls the property. (Prior code 6.12.060)

Sec. 7-6-380. Town Park closures.

The Town Manager may close Town Park, or defined areas within Town Park, to dogs. No owner of a dog may permit the dog to enter any area within Town Park which is closed to dogs by order of the Town Manager. For any closure to be effective, appropriate signs notifying the public of

the closure shall be erected at the entrance to the closed area. (Prior code 6.12.070)

Sec. 7-6-390. Harassment of wildlife.

No owner of a dog shall knowingly or negligently allow such dog to harass wildlife, whether or not the wildlife is actually injured by such dog. (Prior code 6.12.080)

Sec. 7-6-400. Fines, penalty assessments and other penalties.

(a) It is unlawful for any person to violate any provision of this Article.

(b) Failure to license violations. Failure to obtain a license in violation of Section 7-6-310 of this Article constitutes a separate violation for each week, or part of a week, during which the dog continues to be unlicensed. Any person found guilty of violating or who acknowledges violating Section 7-6-310 shall be subject to a maximum penalty set forth in Paragraph 1-4-10(a)(1) of this Code, together with court costs, but in no event shall the fine be an amount less than seventy-five dollars ($75.00).

(c) Any person who is found to have violated, or who acknowledges violating Section 7-6-120(a) or Subsection 7-6-130(a), 7-6-350(g), 7-6-390 of this Article shall be fined an amount not less than the minimum shown in the Penalty Schedule hereinbelow and shall be subject to a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code.

(d) Vicious behavior violations. An alleged violation of Subsection 7-6-350(h) of this Article shall require a hearing before the Municipal Court, unless waived by the Town Prosecutor. Any person found guilty of violating, or who acknowledges violating, Subsection 7-6-350(h) shall be subject to a maximum penalty set forth in Paragraph 1-4-10(a)(1) of this Code, together with court costs, but in no event shall the fine be an amount less than one hundred fifty dollars ($150.00). Any person found guilty of violating, or who acknowledges violating, Subsection 7-6-350(h) shall be required to pay the medical bills of any victim of the subject dog's vicious behavior that resulted from the vicious behavior and to pay any other appropriate restitution as ordered by the Municipal Court. A vicious dog is declared further to be a threat to public safety and welfare and, upon notice as set forth in Section 7-6-180 of this Article and a hearing as required pursuant to Subsection 7-6-200(c) of this Article, the Municipal Court may order that the dog be banished from the Town or destroyed in a humane manner or any other sanction as provided for in Subsection (g) below.

(e) Penalty assessments.

(1) Any person who is issued a citation for violation of any provision of this Article, except violations set forth in (b), (c), and (d) above, may be offered a penalty assessment by a peace officer as described in the schedule below. Payment of the penalty assessment on the citation will constitute complete satisfaction of the violation if payment is received at Town Hall on or before the day prior to the court date. If not paid by that date, the penalty assessment shall double.

(2) A surcharge in an amount equal to twenty percent (20%) of the penalty assessment shall also be assessed for each violation. All monies collected from the surcharge shall be used for victim restitution and to offset the costs of raising community dog awareness.

(f) Repeat offenders. Any person who is issued four (4) or more citations for violations of any provision of this Article within any successive twelve-month period that are not paid when due shall be considered a repeat offender and shall be issued a complaint and summons requiring a court appearance.

(g) Special sanctions. The Municipal Judge may impose any of the following sanctions upon recommendation of the Town Prosecutor or peace

officer, against any dog owner convicted of any violation of this Article:

(1) Construction of a secure dog enclosure and may authorize an initial compliance inspection;

(2) Spaying or neutering of the dog;

(3) Obedience training or behavior modification;

(4) Responsible pet ownership class;

(5) Community service work;

(6) Prohibition from owning dogs while residing within the Town for a specified period;

(7) Use of humane training devices for behavior modification;

(8) Restitution for costs of care rendered or shelter given, costs of veterinary care and costs of medical treatment; and

(9) Treatment or counseling programs for the owners or victims.

Any sanction levied may be in lieu of or in addition to the penalty as specified in this Section. (Prior code 6.12.090; Ord. 1288 §1, 2008)

(h) **Animal Fines, Penalty Assessments and Other Penalties Schedule**

Violations for which a penalty assessment may not be offered are shown in the Schedule for convenience only.

Code Section	Description	Penalty Assessment	Community Service	Criminal Summons Minimum Fine
	ANIMALS			
TMC 7-6-110	Boarding Non-companion animals	$50		
TMC 7-6-120	Care of Confined Animals			SUMMONS (minimum fine $75)
TMC 7-6-130(a)	Mistreated, Neglected or Abandoned Animals			SUMMONS (minimum fine $75)
TMC 7-6-140	Non-companion Animals at Large	$50		
TMC 7-6-150	Hitching	$75		
TMC 7-6-210	Feeding of Wildlife	$50 1st* $250 2nd* Civil Summon3rd * *offense w/i 12 successive months		
	DOGS			
TMC 7-6-140	Dogs at Large	$100 1st* $300 2nd* Civil Summon3rd* *offense w/i 18 successive months	4 hours 4 hours 8 hours	
TMC 7-6-310	Licensing Required			Summons (minimum fine $75)
TMC 7-6-330(a)	Display of License Tag	$50		
TMC 7-6-330(c)	Display of Expired License Tag	$50		
TMC 7-6-340	Estrus	$50		
TMC 7-6-350(a)	Barking	$50		
TMC 350(b)	Failure to Remove After Dog Defecates	$250 1st* $500 2nd* 3rd Civil *Summons* upon conviction mandatory minimum fine $500 not to exceed $1,000 *offense w/i 18 successive months	4 hours 8 hours 16 hours	
TMC 7-6-350(c)	Cleanliness of Premises	$75		
TMC 7-6-350(d)	Improper disposal of Feces	$75		
TMC 7-6-350(e)	Unvaccinated Dog	$75		
TMC 7-6-350(f)	Trashing	$75		
TMC 7-6-350(g)	Threatening			Summons (minimum fine $100)
TMC 7-6-350(h)	Vicious			Summons (minimum fine $150)
TMC 7-6-350(i)	Motorized Exercise	$75		
TMC 7-6-350(j)	Means of Removal-	$25		
TMC 7-6-360(a)	Leashing – Physical	$50		
TMC 7-6-360(b)	Leashing - Command	$50		
TMC 7-6-370	Canine Trespass	$50		
TMC 7-6-380	Town Park Closures	$50		
TMC 7-6-390	Harassment of Wildlife			Summons (minimum fine $150)

(Ord. 1339, 2010; Ord. 1305, 2009; Ord. 1288 §1, 2008; Prior code 6.12.090)

ARTICLE 7

Prohibition on Disposable Plastic Bags and Mandating Certain Standards and a Fee for the Use of Permitted Paper Bags

Sec. 7-7-10. Definitions.

The following words and phrases as used in this Article shall have the following meaning:

Advanced Recovery Fee (ARF) means the Town fee of $.10 imposed and required to be paid by each consumer making a purchase from a Town Grocer for each Permitted Paper Bag used during the purchase.

Business means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships, corporations or any other legal entity whether for profit or not for profit and includes all employees of the business and any independent contractors associated with the business.

Disposable Plastic Bag means a bag made from either non-compostable plastic or compostable plastic provided by a Business to a customer at the point of sale for the purpose of transporting goods. The term "Disposable Plastic Bag" shall not include:

(a) Bags used by consumers inside stores to:

(1) Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;

(2) Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;

(3) Contain or wrap flowers, potted plants, or other items where dampness may be a problem; and,

(4) Contain unwrapped prepared foods or bakery goods;

(b) Bags provided by pharmacists to contain prescription drugs or bags provided by a medical marijuana center to provide the product to the patient;

(c) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

(d) Reusable Carryout Bags;

(e) Non-Permitted Paper Bags and Permitted Paper Bags, as defined in this Article 7; or

(f) Bags provided to the consumer for the purpose of transporting a partially consumed bottle of vinous liquor (wine) pursuant to the provisions of C.R.S. § 12-47-421.

Grocer means a retail establishment or Business within Town limits that is a full-line, self-service market with a retail market area in excess of 2000 square feet and which sells a line of staple foodstuffs, meats, produce, household supplies, or dairy products or other perishable items.

Non-Permitted Paper Bags means a paper bag provided by a Business to a customer at the point of sale for the purpose of transporting goods, which does not meet the standards of a "Permitted Paper Bag" as defined in this Article 7.

Permitted Paper Bags means a paper bag provided by a Grocer to a customer at the point of sale for the purpose of transporting goods, which is subject to the Town's Advanced Recovery Fee (ARF), and that meets all of the following requirements:

(a) The bag is manufactured from a minimum of forty percent (40%) recycled content;

(b) The bag contains no old growth fiber; and

(c) The bag is one hundred percent (100%) recyclable.

Reusable Carryout Bag means a bag that is specifically intended for multiple reuse and is made of cloth, fiber, or other machine washable fabric that is at least 2.25 millimeters thick.

Town Waste Reduction and Reusable Carryout Bag Program means a Town program to fund a public education campaign to educate residents, businesses, and tourists about the impact of trash on the regional environmental health and of the implementation of the ARF, to fund the use of Reusable Carryout Bags and to fund other Town and community cleanup events and other activities that reduce trash in the environment.

Waste Reduction and Reusable Carryout Bag Line Item means a line item created in the annual budget by the Town of Telluride from the Town proceeds of the ARF to fund the Town Waste Reduction and Reusable Carryout Bag Program to fund a public education campaign to educate residents, businesses, and tourists about the impact of trash on the regional environmental health and of the implementation of the ARF, to fund the use of Reusable Carryout Bags and to fund other Town and community cleanup events and other activities that reduce trash in the environment. (Ord. 1340, 2010)

Sec. 7-7-20. Implementation of the Advanced Recovery Fee (ARF) on Grocers.

(a) Effective January 1, 2011, all Town Grocers shall implement the requirements of the Town's Advanced Recovery Fee (ARF) as set forth below in Section 7-7-40. Except for the limited period of time between January 1, 2011 and March 1, 2011 for the continued use of Disposable Plastic Bags as set forth below in Section 7-7-30, effective January 1, 2011 all Town Grocers shall only offer either a Reusable Carryout Bag or a Permitted Paper Bag to a consumer with such Permitted Paper Bag offered to a customer provided the Grocer is in compliance with the terms and conditions of the ARF.

(b) Violation of the requirements set forth in this section shall subject the offending Person and/or Business to the penalties set forth below in Section 7-7-70. (Ord. 1340, 2010)

Sec. 7-7-30. Town Wide Prohibition on Disposable Plastic Bags.

(a) Effective March 1, 2011 Disposable Plastic Bags shall not be sold or distributed, retail or wholesale, within Town limits by any Business. The Town also encourages all Businesses to refrain from purchasing any additional Disposable Plastic Bags before the effective date of the Town prohibition on Disposable Plastic Bags.

(b) Violation of the requirements set forth in this section shall subject the offending Person and/or Business to the penalties set forth below in Section 7-7-70. (Ord. 1340, 2010)

Sec. 7-7-40. Establishment of Advanced Recovery Fee (ARF).

(a) A consumer making a purchase from a Grocer shall pay at the time of purchase an Advanced Recovery Fee (ARF) of $.10 for each Permitted Paper Bag used during the purchase. A Grocer shall not advertise or hold out or state to the public or to a customer directly or indirectly that the reimbursement of the ARF or any part thereof to be collected by the Grocer will be assumed or absorbed by the Grocer or otherwise refunded to the customer. All Grocers shall indicate on the consumer transaction receipt the number of Permitted Paper Bags provided and the total amount of ARF charged.

(b) Each Grocer shall retain $.05 of each $.10 ARF collected as a collection and remittance expense (also known as a "Vendor Fee") to be taken as a Grocer credit against the ARF due the Town.

(c) The total portion of the ARF retained by the Grocer as a Vendor Fee under this Section shall not be classified as revenue and shall be tax-exempt. The ARF retained as a Vendor Fee by the Grocer shall be excluded from the definition of Retail Sales as defined under Telluride Municipal Code Section 4-2-20.

(d) The remaining amount of each ARF collected by a Grocer shall be paid to the Town of Telluride Finance Department and shall be deposited as revenue in the Waste Reduction and Reusable Carryout Bag Line Item. A Grocer shall pay and the Town of Telluride shall collect this ARF at the same time and pursuant to all applicable provisions of the Town Sales Tax, pursuant to the provisions of the Telluride Municipal Code Chapter 4, Article 2 and consistent with all applicable Sales Tax provisions regarding administration, collection, and enforcement as the same now apply to the ARF, to the extent not modified in this section. The Town shall provide the necessary forms for Grocers to file individual returns with the Town, separate from the required Town Sales Tax forms, to demonstrate compliance with the provisions of the ARF. Notwithstanding the fact that the ARF will be collected at the same time and following a similar procedure as used for the Town Sales Tax, such manner of collection contemporaneous with the Town Sales Tax is for the convenience of the Grocer and does not change the nature of the ARF from a fee to a tax.

(e) If payment of any amounts to the Town for the ARF is not received on or before the applicable due date, penalty and interest charges shall be added to the amount due and owing to the Town pursuant to Telluride Municipal Code Sections 4-2-390 and 4-2-400.

(f) Any Town Business may voluntarily opt in and apply the ARF to its business. (Ord. 1340, 2010)

Sec. 7-7-50. Establishment of the Town Waste Reduction and Reusable Carryout Bag Program.

Notwithstanding any other provision of this Article, not more than two percent (2%) of the ARF revenues annually deposited into the Waste Reduction and Reusable Carryout Bag Line Item may be retained by the Town to offset fee collection costs and as an administration and management fee. After deduction of the Town's two percent (2%) administration and management fee, the Waste Reduction and Reusable Carryout Bag Line Item shall be used solely for the purposes of funding the Town Waste Reduction and Reusable Carryout Bag Program, which has a stated purpose and limitation of funding a public education campaign to educate residents, businesses, and tourists about the impact of trash on the regional environmental health and of the implementation of the ARF, to fund the use of Reusable Carryout Bags and to fund Town and community cleanup events and other activities that reduce trash in the environment. (Ord. 1340, 2010)

Sec. 7-7-60. Required Signage for Grocers.

Every Grocer that is subject to the collection of the ARF shall display a sign in a location viewable by customers stating that "The Town of Telluride prohibits the sale or distribution of Disposable Plastic Bags in an effort to help protect our environment from excess litter, resource consumption and greenhouse gases. The Town of Telluride encourages the use of Reusable Carryout Bags in all instances. If you do not have a Reusable Carryout Bag or choose not to purchase a Reusable Carryout Bag, a 100% recyclable paper bag is available subject to a $.10 per bag fee. Town proceeds from the fee shall be used to further promote this program." (Ord. 1340, 2010)

Sec. 7-7-70. Enforcement and Penalties for Violation.

Any Person and/or Business upon conviction of a violation of any provision of this Article, shall be subject to the following penalties:

(a) Upon the 1st violation, a one (1) time only written warning notice that a violation has occurred shall be issued by the Town to the Person and/or Business. No monetary penalty shall be imposed for the 1st violation.

(b) Upon a subsequent violation and conviction, the Town shall impose a penalty on the Person and/or Business. The penalty shall not exceed:

(1) $50.00 for the 1st violation after the written warning;

(2) $100.00 for the 2nd violation in the same calendar year of the 1st violation; and,

(3) $300.00 for the 3rd and each subsequent violation in the same calendar year of the earlier violations.

(c) No more than one (1) penalty shall be imposed upon a Person and/or Business within a seven (7) day period. (Ord. 1340, 2010)

CHAPTER 8

Vehicles and Traffic

Article 1 Model Traffic Code
Sec. 8-1-10 Adoption
Sec. 8-1-20 Copy on file
Sec. 8-1-30 Applicability
Sec. 8-1-40 Amendments or modifications
Sec. 8-1-50 Penalty
Sec. 8-1-60 Penalty assessment

Article 2 Operating, Standing, Stopping and Parking
Sec. 8-2-10 Registration and licensing
Sec. 8-2-20 Prolonged idling of motor
Sec. 8-2-30 Inadequate muffling
Sec. 8-2-40 Parking during major festival events
Sec. 8-2-50 Seasonal parking restrictions for plowing
Sec. 8-2-60 Centerlane Commercial Loading Zone
Sec. 8-2-70 Failure to respond to summons
Sec. 8-2-80 Presumption in reference to illegal parking
Sec. 8-2-90 Penalties

Article 3 Abandonment and Impoundment
Sec. 8-3-10 Abandonment unlawful
Sec. 8-3-20 Impoundment authority
Sec. 8-3-30 Impoundment grounds
Sec. 8-3-40 Temporary immobilization
Sec. 8-3-50 Fees
Sec. 8-3-60 Notice and hearing
Sec. 8-3-70 Penalties

ARTICLE 1

Model Traffic Code

Sec. 8-1-10. Adoption.

Pursuant to Title 31, Article 16, Parts 1 and 2, and Title 30, Article 15, Part 4, C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2003 edition of the Model Traffic Code for Colorado ("MTC"), promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to generally conform to similar regulation throughout the State. (Prior code 10.04.020; Ord. 1297 §1, 2008)

Sec. 8-1-20. Copy on file.

One (1) copy of the MTC adopted herein is now filed in and shall be kept at the office of the Town Clerk at Town Hall and may be inspected during regular business hours. The 2003 edition of the Model Traffic Code is adopted as if set out at length. (Prior code 10.04.020; Ord. 1297 §1, 2008)

Sec. 8-1-30. Applicability.

The MTC shall apply to every street, alley, sidewalk area, driveway, park and every other public way, place or parking area, either within or outside of the Town limits, the use of which the Town has authority to regulate. (Prior code 10.04.030; Ord. 1297 §1, 2008)

Sec. 8-1-40. Amendments or modifications.

(a) Article I of the MTC is hereby amended as follows:

(1) Section 111 is added to read as follows:

"111. Electric scooters allowed.

"(1) Electric scooters may operate on roadways within the municipal boundaries which are free and clear of ice and snow.

"(2) Electric scooters may not operate in the Telluride Town Park or the River Park Corridor Trail.

"(3) Every person operating an electric scooter upon a roadway has all the rights and is subject to all the provisions applicable to the driver of a motor vehicle as set forth in this code, except those provisions which, by their very nature, can have no application. Operators shall also comply with any special rules set forth in this section.

"(4) An operator of an electric scooter must be at least sixteen (16) years of age.

"(5) A person operating an electric scooter is not subject to the provisions of this code relating to driver's licensing, financial responsibility, registration and license plate requirements and, for those purposes, an electric scooter is not a motor vehicle.

"(6) No person shall operate an electric scooter outside of municipal boundaries or on any roadway with a speed limit in excess of 15 miles per hour.

"(7) No person shall operate an electric scooter in excess of 15 miles per hour.

"(8) No person shall operate an electric scooter before sunrise or after sunset.

"(9) No person shall operate an electric scooter with any passengers.

"(10) No person shall operate an electric scooter upon a sidewalk, except as may be necessary to enter or leave adjacent property.

"(11) No person shall operate an electric scooter with the handlebars raised so that the operator must elevate his or her hands above the level of his or her shoulders in order to grasp the normal steering grip area.

"(12) No person shall leave an electric scooter lying on its side on any sidewalk, or park an electric scooter on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic.

"(13) No person operating an electric scooter shall attach the electric scooter or himself or herself while on the roadway, by any means, to any other vehicle on the roadway.

"(14) An electric scooter shall comply with the following:

"(a) Operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied; or

"(b) Operate in a manner so that the motor is engaged through a switch or mechanism that, when released, will cause the electric motor to disengage or cease to function; and

"(c) Operate in a manner that will enable the operator to make a braked wheel skid on dry, level, clean pavement.

"(15) Persons operating electric scooters upon a roadway shall ride only in single file.

"(16) Any person operating an electric scooter upon a roadway at a speed less than the normal speed of traffic moving in the same direction at that time shall ride as close as practicable to the right-hand curb or right edge of the roadway, except under the following situations:

"(a) When overtaking and passing another vehicle proceeding in the same direction.

"(b) When preparing for a left turn.

"(c) When reasonably necessary to avoid conditions, including but not limited to fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards or substandard width lanes (those lanes which are too narrow for an electric scooter and another vehicle to travel safely side by side within the lane), which make it unsafe to continue along the right-hand curb or right edge of the roadway, subject to Section 1412.

"(17) Whenever a bicycle lane has been established on a roadway, any person operating an electric scooter upon the roadway shall ride within the bicycle lane, except that the person may move out of the lane under any of the following situations:

"(a) When overtaking and passing another vehicle or pedestrian within the lane or when about to enter the lane if the overtaking and passing cannot be done safely within the lane.

"(b) When preparing for a left turn.

"(c) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.

"(d) When approaching a place where a right turn is authorized.

"(e) No person operating an electric scooter shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in section 1412.

"(18) An electric scooter may be operated on a bicycle path or trail or bikeway, except as otherwise provided for in Subsection 109.5(2) above."

(2) Section 109.5 is amended to read as follows:

"109.5. Neighborhood electric vehicles allowed.

"(1) Neighborhood electric vehicles may operate on all streets within the municipal boundaries with a posted speed limit of less than thirty (30) miles per hour; provided however, that neighborhood electric vehicles shall be allowed to cross, at intersections, streets and highways that have posted speed limits in excess of thirty (30) miles per hour.

"(2) No person shall operate a neighborhood electric vehicle on a limited access highway.

"(3) No person shall operate a neighborhood electric vehicle on public trails or paths.

"(4) Every person operating a neighborhood electric vehicle shall be subject to all of the duties and penalties applicable to the driver of a motor vehicle as set forth in this code.

"(5) An operator of a neighborhood electric vehicle shall possess a currently valid driver's license, minor driver's license or provisional driver's license."

(3) Section 114 is deleted in its entirety.

(4) Sections 706, "Obedience to railroad signal," 707, "Certain vehicles must stop at railroad grade crossings," 708, "Moving heavy equipment at railroad grade crossing" and 711, "Driving on mountain highways" are hereby deleted.

(5) Section 802(1) is hereby amended to read as follows:

"(1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a marked crosswalk, or an unmarked crosswalk at an intersection, when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger."

(6) Section 805(2) is amended to read as follows:

"(2) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle where such conduct creates a traffic hazard or endangers any person. For the purposes of this subsection (2), 'roadway' means that portion of the road normally used by moving motor vehicle traffic."

(7) Section 1101(1) is amended to read as follows:

"(1) No person shall drive a vehicle on any road, street or alley at a speed greater

than what is reasonable and prudent under the conditions then existing. Speeds in excess of any posted speed limit shall not be considered reasonable and prudent."

(8) Part 12 is amended by the addition of Section 1203 to read as follows:

"1203. Parking not to obstruct traffic or maintenance. No person shall park any vehicle upon a street or highway in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance."

(9) Section 1204(1) is amended by the addition of the following subparagraphs:

"(l) Within an alley except during the necessary and expeditious loading and unloading of merchandise or freight.

"(m) Within an alley in such a position as to block the driveway entrance to any abutting property."

(10) Subsections 1204(2)(a) and (f) are amended as follows:

"(a) Within five feet of a public or private driveway, including any alley;

"(f) At any other place where official signs prohibit standing, parking, or in violation of the provisions contained on an official sign."

(11) Section 1204 is further amended by the addition of the following subsections:

"(6) No person shall stand or park a vehicle in such a manner as to leave available less than two feet clearance between vehicles when parked.

"(7) No person shall park a vehicle upon a roadway for the principal purpose of:

"(a) Displaying such vehicle for sale;

"(b) Washing, greasing, painting or repairing such vehicle except repairs necessitated by an emergency;

"(c) Displaying advertising.

"(8) No person shall stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place officially marked as a passenger loading zone during hours when regulations applicable to such loading zone are effective and then only for a period not to exceed three minutes.

"(9) No person shall park a nonmotorized vehicle on any public street, right-of-way or in any public parking lot for more than seventy-two (72) hours or for the principal purpose of storage for more than seventy-two (72) hours. Any such nonmotorized vehicle may be impounded under Section 8-3-30(16) of the Telluride Municipal Code."

(12) Section 1210 is amended to read as follows:

"1210. Parking meter zones. Whenever parking meter zones have been established on streets or in parking areas regulated, the parking of vehicles at places, street or parts of streets so designated shall be controlled by parking meters between the hours and on the days declared in said schedules or records and specified on authorized parking meter signs or legends."

(13) Section 1213 is added to read as follows:

"1213. Parking meters. Parking meters installed in parking meter zones established shall be so designed, constructed, installed and set as to meet the following conditions:

"(1) Said meters shall be capable of being operated, either automatically or mechanically upon the deposit therein of United States currency or coins or authorized cards or tokens or any other means of payment established by the Town, for the full period of time for which parking is lawfully permitted in any such parking meter zone or, in lieu thereof, for an appropriate fractional period of time. Meters may, as indicated by authorized parking meter signs or legends, regulate parking in either individual parking spaces or multiple spaces.

"(2) Individual space parking meters. Upon the expiration of the time period registered by the deposit of currency, coins, authorized tokens or cards as provided herein, parking meters for individual parking spaces shall indicate by an appropriate signal that the lawful parking meter period has expired, and during said period of time and prior to the expiration thereof, will indicate the interval of time which remains of such period.

"(3) Multiple space parking meters. Upon the deposit of currency, coins, authorized tokens or cards as provided herein, parking meters regulating multiple parking spaces shall issue a printed receipt indicating the date of issuance, expiration time of the interval of authorized parking, and, if applicable, the location of the parking space.

"(4) Each parking meter shall bear thereon an authorized sign or message clearly legible indicating the days and hours when the requirements to deposit currency, coins, authorized tokens or cards shall apply, the value of the currency, coins, authorized tokens or cards to be deposited, and the limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located.

"(5) The Town may authorize the use of portable, in-vehicle meters for use in parking meter zones. Such portable meters, when properly operated, may be used in lieu of individual parking meters or receipts issued by multiple space parking meters. Portable meters, when used, must be clearly visible, hanging from the rear view mirror of the vehicle for which the meter is used or otherwise displayed as required."

(14) Section 1214 is added to read as follows:

"1214. Parking meter spaces.

"(1) Individual parking meters. Parking meter spaces for individual space parking meters shall be of appropriate length and width as determined by the town engineer and may be designated by appropriate markings on the curb and/or pavement of the street. Every vehicle parked in an angle or perpendicular parking space regulated by an individual space parking meter shall be parked wholly in the metered space, with the front end or front portion of such vehicle immediately adjacent to the parking meter for such space. Every vehicle parked in a parallel parking space regulated by an individual space parking meter shall be parked wholly in the metered space, with its front end or portion of the rear end or rear

portion of such vehicle immediately adjacent to the parking meter for such space.

"(2) Multiple space parking meters. In zones regulated by multiple space parking meters, vehicles shall be parked either parallel, perpendicular or diagonal to the curb, as may be indicated by official signs. Vehicles parked in a manner so that any portion of the vehicle is within the zone regulated by a multiple space meter shall be required to pay the amount indicated by the meter for parking in that zone. Every vehicle parked in designated space regulated by a multiple space parking meter shall be parked wholly in the metered space.

"(3) Except where prohibited by other provisions of this code, a vehicle which is of a size too large to be parked within a single parking meter space shall be permitted to occupy two adjoining parking meter spaces when currency, coins, authorized tokens or cards have been deposited in the parking meter for each space so occupied as is required for the parking of other vehicles in such spaces."

(15) Section 1215 is added to read as follows:

"**1215. Deposit of currency, coins, tokens or cards; time limits.**

"(1) Individual space parking meters. No person shall park a vehicle in any parking space upon a street along side of, next to or adjacent to which an individual parking space meter has been installed during the restricted and regulated time applicable to the parking meter zone in which such meter is located unless currency, coins, authorized tokens or cards of the appropriate denomination as provided in this code shall have been deposited therein, or shall have been previously deposited therein for an unexpired interval of time, and said meter has been placed in operation.

"(2) Multiple space parking meters. No person shall park a vehicle in any multiple space parking meter zone, as indicated by official signs, during the restricted and regulated time applicable to the multiple space parking meter zone unless currency, coins, authorized tokens or cards of the appropriate denominations as provided in this code shall have been deposited therein, a receipt therefor received from the multiple space parking meter, and the receipt clearly and properly displayed on the dashboard indicating an unexpired interval of time; or such vehicle displays a validly issued and properly operated portable, in-vehicle meter. No person shall display more than one multiple space parking meter receipt on the dashboard of any vehicle at one time, except as may be required pursuant to Section 1214(3).

"(3) No person shall permit a vehicle under the person's control to be parked in any parking meter space or parking meter zone for a consecutive period of time longer than that limited period of time for which parking is lawfully permitted in the parking meter space or zone, irrespective of the number or amount of currency, coins, authorized tokens or cards deposited in the meter regulating such space or zone.

"(4) No person shall permit a vehicle within his control to be parked in any parking meter space or zone during the restricted and regulated time applicable to the parking meter space or zone while the parking meter for such space indicates by signal that the lawful parking time in such space is

expired, or in multiple space parking meter zones, without displaying a valid multiple space parking meter receipt. This provision shall not apply to the act of parking or the necessary time which is required to deposit immediately thereafter currency, coins, authorized tokens or cards in such meter.

"(5) A vehicle may be parked in a parking meter space or zone without operation of the meter on such days and during those hours of the day when the requirement to deposit currency, coins, authorized tokens or cards does not apply, as determined from the parking meter sign or legend.

"(6) The provisions of this section shall not relieve any person from the duty to observe other and more restrictive provisions of this code or official signs or parking meter legends prohibiting or limiting the stopping, standing or parking of vehicles in specified places at specified times, or in a specified manner.

"(7) No person shall deposit or attempt to deposit in any parking meter any slug, button or any other device or substance as substitutes for currency, coins, authorized tokens or cards, and no person shall deposit any lawful currency, coin, authorized token or card that is bent, cut, torn, battered or otherwise misshapen."

(16) Section 1407(2)(a) is amended to read as follows:

"(2)(a) No vehicle shall be driven or moved on any highway within the Town limits if the vehicle is transporting aggregate material with a diameter of one inch or less unless:

"(I) The load is covered by a tarp or other cover in a manner that prevents the aggregate material from blowing, dropping, sifting, leaking or otherwise escaping from the vehicle; or

"(II) The vehicle utilizes other technology that prevents the aggregate material from blowing, dropping, sifting, leaking or otherwise escaping from the vehicle."

(17) Section 1411 is amended to read as follows:

"**1411. Use of earphones.**

"(1)(a) No person shall operate a motor vehicle or bicycle while wearing earphones.

"(b) For purposes of this Subsection (1), 'earphones' includes any headset, radio, tape player or other similar device which provides the listener with radio programs, music or other recorded information through a device attached to the head and which covers all of or a portion of the ears."

(18) Subsections 1412(10)(a) and (b) are amended to read as follows:

"(10)(a) A person riding a bicycle upon and along any sidewalk or designated bicycle path or lane or across a roadway shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking or passing such pedestrian. In the core commercial area, a pedestrian shall yield the right-of-way to any person riding a bicycle upon and along any designated bicycle path or lane, except at a marked crosswalk or an unmarked crosswalk at an intersection.

"(b) No person shall ride a bicycle upon and along any sidewalk in the core commercial area or along any sidewalk or across a roadway where prohibited by official traffic control devices or local ordinances."

(19) Subsection 1412(10) is further amended by deleting subparagraph (d).

(20) Subsections 1412(11)(c), (d) and (e) are amended to read as follows:

"(c) Except in the core commercial area, a bicycle may be parked on the road at any angle to the curb or edge of the road at any location where parking is allowed.

"(d) Except in the core commercial area, a bicycle may be parked on the road abreast of another bicycle or bicycles near the side of the road or any location where parking is allowed in such a manner as does not impede the normal and reasonable movement of traffic.

"(e) In the core commercial area, no bicycle may park on the street except in designated bicycle parking areas."

(21) Section 1412(f) is added to read as follows:

"(f) In all other respects, bicycles parked anywhere on a highway shall conform to the provisions of Part 12 of the MTC regulating the parking of vehicles."

(22) Section 1412(12) is added to read as follows:

"(12) Skateboards. (a) No person shall ride or travel upon a skateboard on any sidewalk in the core commercial area, nor shall any such person interfere with vehicle, bicycle or pedestrian traffic.

"(b) No person riding or traveling upon a skateboard shall strike, bounce, jump or ricochet off or against curbs, buildings or other structures in the core commercial area, or attempt to do so."

(23) Section 1701 is amended to read as follows:

"1701. Traffic violations classified.

"(1) The term 'traffic violation' shall refer to either traffic infractions as defined in Paragraph (2) or to traffic offenses as defined in Paragraph (3) below.

"(2) It is a traffic infraction for any person to violate any of the provisions of this code, except those specifically listed in Paragraph (3). Traffic infractions are civil matters to be tried before the court without right to jury trial, and no person found liable for a traffic infraction shall be punished by imprisonment.

"(3) Violation of the following provisions of this code shall be deemed a misdemeanor traffic offense, and the defendant shall have the right to demand a jury trial and may be punished by imprisonment:

"(a) 107, Obedience to police officers;

"(b) 227(1)(a), Obstructing (tinted) windows;

"(c) 228(8), Selling vehicle for highway use with noncomplying tires;

"(d) 233, Alteration of suspension systems;

"(e) 507, Wheel and axle loads;

"(f) 508, Gross weight of vehicles and loads;

"(g) 509, Failure to stop for or to allow weighing;

"(h) 510, Permits for manufactured homes;

"(i) 611, Paraplegic persons – distress flag;

"(j) 1101 (12), Driving twenty-five or more m.p.h. in excess of speed limit;

"(k) 1105, Speed contests;

"(l) 1401, Reckless driving;

"(m) 1409, Lack of insurance;

"(n) 1413, Eluding or attempting to elude police officer.

"(4) Any person with more than one traffic violation arising out of the same episode, at least one of which is a misdemeanor traffic offense listed in Paragraph (3) of this section, shall have the right to demand a jury trial for all violations which then shall be consolidated for trial."

(24) Section 1704 is amended to read as follows:

"**1704. Violations by persons controlling vehicles.** It is a violation of this provision for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law or this code."

(25) Section 1705 is amended as follows:

"**1705. Person arrested to be taken before the proper court.**

"(1) Whenever a person is arrested for any traffic offense under this code, the arrested person shall be taken without unnecessary delay before a municipal judge who has jurisdiction of such offense as provided by law, in any of the following cases:

"(a) When a person arrested demands an appearance without unnecessary delay before a judge;

"(b) 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;

"(c) 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;

"(d) Reckless driving;

"(e) Deleted in its entirety;

"(f) Exhibition of speed or speed contest;

"(g) In any other event when the provisions of this part 17 apply and the person arrested refuses to give his written promise to appear in court as provided in section 1707.

"(2) Whenever any person is arrested by a police officer for any traffic offense under this code and is not required to be taken

before a municipal judge as provided in subsection (1) of this section, the arrested person shall, in the discretion of the officer, either be given a written notice or summons to appear in court as provided in section 1707 or be taken without unnecessary delay before a municipal judge who has jurisdiction of such offense when the arrested person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court. The court shall provide a bail bond schedule and available personnel to accept adequate security for such bail bonds."

(26) Section 1707(1) is amended as follows:

"(1) Whenever a person commits a traffic offense of this code other than an offense for which a penalty assessment notice may be issued in accordance with the provisions of section 1701 and C.M.C.R., and such person is not required by the provisions of section 1705 to be arrested and taken without unnecessary delay before a municipal judge, the peace officer may issue and serve upon the defendant a summons and complaint which shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the statute alleged to have been violated, a brief description of the offense, the date and approximate location thereof, and the date the summons and complaint is served on the defendant; shall direct the defendant to appear in a specified court at a specified time and place; shall be signed by the peace officer; and shall contain a place for the defendant to execute a written promise to appear at the time and place specified in the summons portion of the summons and complaint."

(27) Subsection 1707(3)(a) is amended to read as follows:

"(3)(a) Whenever a penalty assessment notice for a traffic offense is issued pursuant to section 1701, the penalty assessment notice which shall be served upon the defendant by the peace officer shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the code alleged to have been violated, a brief description of the offense, the date and approximate location thereof, the amount of the penalty prescribed for such offense, the amount of surcharge thereon pursuant to section 24-4.2-109, C.R.S., the number of points, if any, prescribed for such offense pursuant to section 42-2-127, C.R.S., and the date the penalty assessment notice is served on the defendant; shall direct the defendant to appear in a specified municipal court at a specified time and place in the event such penalty thereon is not paid; shall be signed by the peace officer; and shall contain a place for such defendant to elect to execute a signed acknowledgment of liability and an agreement to pay the penalty prescribed thereon prior to the court date specified on the penalty assessment notice, as well as such other information as may be required by ordinance and C.M.C.R. to constitute such penalty assessment notice to be a summons and complaint, should the prescribed penalty thereon not be paid within the time allowed by ordinance or court order."

(28) Section 1708(1) is amended to read as follows:

"(1) In criminal trials and noncriminal hearings, the burden of proof shall be upon the people, and the court shall enter judgment in favor of the defendant unless the people prove the liability of the defendant beyond a reasonable doubt."

(29) Section 1709(1) is amended to read as follows:

"(1) Whenever a penalty assessment notice for a traffic infraction is issued pursuant to section 1701, the penalty assessment notice which shall be served upon the defendant by the peace officer shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the statute alleged to have been violated, a brief description of the traffic violation, the date and approximate location thereof, the amount of the penalty prescribed for such traffic offense, the amount of the surcharge thereon pursuant to section 24-4.2-109, C.R.S., the number of points, if any, prescribed for such traffic violation pursuant to section 42-2-127, C.R.S., and the date the penalty assessment notice is served on the defendant; shall direct the defendant to appear in a specified county court at a specified time and place in the event such penalty and surcharge thereon is not paid; shall be signed by the peace officer; and shall contain a place for the defendant to elect to execute a signed acknowledgment of liability and an agreement to pay the penalty prescribed thereon prior to the court date specified on the penalty assessment notice, as well as such other information as may be required by law to constitute such penalty assessment notice to be a summons and complaint should the prescribed penalty and surcharge thereon not be paid within the time allowed set by ordinance or court order."

(30) Section 1710 is amended to read as follows:

"**1710. Failure to pay penalty for traffic violations – procedures.**

"(1) Unless a person who has been cited for a traffic violation pays the penalty assessment as provided in this article and surcharge thereon pursuant to section 24-4.2-109, C.R.S., such person shall appear at a hearing on the date and time specified in the citation and answer the complaint against such person.

"(2) If the violator answers that he is liable or guilty for the violation or if the violator fails to appear for the hearing in the case of a traffic infraction, judgment shall be entered against the violator.

"(3) If the violator denies the allegations in the complaint, a final hearing on the complaint shall be held. If the violation is a traffic offense, the final hearing shall be subject to the provisions regarding a speedy trial which are contained in section 18-1-405, C.R.S. If the violator is found liable at such final hearing or if the violator fails to appear for a final hearing, judgment shall be entered against the violator.

"(4) If judgment is entered against a violator, the violator shall be assessed an appropriate penalty and surcharge thereon. The penalty shall be assessed pursuant to Section 8-1-80 of the Telluride Municipal Code."

(31) Section 1711 is amended to read as follows:

"**1711. Compliance with promise to appear.** A written promise to appear in court may be complied with or accomplished by an appearance by counsel."

(32) Section 1716 is amended as follows:

"**1716. Notice to appear or pay fine – failure to appear – penalty.**

"(1) For the purposes of this part 17, tender by a peace officer of the summons or penalty assessment notice shall constitute notice to the violator to appear in court at the time specified on such summons or to pay the required fine and surcharge thereon.

"(2) Any person charged with a traffic offense, who violates any provision of this section, commits a traffic offense."

(33) Section 1717 is amended to read as follows:

"**1717. Conviction – attendance at driver improvement school.** Whenever a person has been convicted of or found liable for violating any provision of this code or other law regulating the operation of vehicles on highways, the court, in addition to the penalty provided for the violation or as a condition of either the probation or the suspension of all or any portion of any fine or sentence of imprisonment for a violation, may require the defendant, at his own expense, if any, to attend and satisfactorily complete a course of instruction at any designated driver improvement school located and operating in the county of the defendant's residence and providing instruction in the traffic laws of this state, instruction in recognition of hazardous traffic situations and instruction in traffic accident prevention. Unless otherwise provided by law, such school shall be approved by the court."

(34) Part 17 is amended by the addition of the following new sections:

"**1718. Notice on illegally parked vehicles.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by the ordinances of this municipality, the peace officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a penalty assessment notice directing the driver thereof to respond to and answer the charge against him at a place and at a time specified in said notice.

"**1719. Failure to comply with notice on parked vehicle.** If the driver or owner of an unattended motor vehicle charged with an apparent violation of the restrictions on stopping, standing or parking under the traffic ordinances of this municipality does not respond within the time specified to a penalty assessment notice affixed to such vehicle, as provided in section 1718, by appearance and payment at the municipal court, or by mailing payment by means of the United States mail, or by other disposition of the charge as provided by law, the clerk of the municipal court shall send a notice that default judgment has been entered by the Court, by mail to the registered owner of the vehicle to which the original notice was affixed. In the event such notice is disregarded for a period of seven (7) days from the date of mailing, the Town may exercise any other available legal remedy, including impoundment of the vehicle pursuant to Section 8-3-30(11) of the Telluride Municipal Code.

"**1720. Presumption in reference to illegal parking.** In any prosecution charging a violation of any provision of this ordinance governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred."

(b) Part 19, School Buses is deleted in its entirety.

(c) Article II of the MTC is amended as follows:

(1) Section 102 is amended by the addition of new Subsection (12.5) to read as follows:

"Core commercial area means that portion of: Colorado Avenue bounded by and including Willow Street and Davis Street; Columbia Avenue bounded by and including Willow Street and Aspen Street; Pacific Avenue bounded by and including Willow Street and Aspen Street; and San Juan Avenue bounded by and including Pine Street and Aspen Street."

(2) Section 102(41) is amended to read as follows:

"(41) 'Motor vehicle' means any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways, but the term does not include motorized bicycles as defined in paragraph (b) of subsection (42) of this section, wheelchairs as defined by subsection (89) of this section, or vehicles moved solely by human power. 'Motor vehicle' includes a neighborhood electric vehicle operated pursuant to Section 42-4-111(1)(a), C.R.S. For the purposes of the offenses described in sections 42-2-128, 42-4-1301 and 42-4-1401, C.R.S., for farm tractors operated on streets and highways, 'motor vehicle' includes a farm tractor which is not otherwise classified as a motor vehicle."

(3) Section 102(42) is amended by the addition of a new subsection (c) to read as follows:

"(c) *Electric scooter* means a two-wheeled device that has handlebars, is designed to be stood upon by the operator and is powered by an electric motor that is capable of propelling the device with or without human propulsion and which does not exceed a maximum speed of 15 mph."

(4) Section 102 is amended by the addition of a new subsection (42.5) to read as follows:

"(42.5) *Neighborhood electric vehicle* means a self-propelled, electrically powered motor vehicle that:

"(a) Has a speed attainable in one mile that does not exceed twenty-five miles per hour; and

"(b) Meets the equipment standards set forth in Article 1, Part 2 as herein below amended:"

(5) Subsection 206(3) is amended by the addition of a new sentence that reads:

"This subsection (3) shall not apply to neighborhood electric vehicles."

(6) Subsection 216 by the addition of a new subsection:

"(1.5) Head lamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted for neighborhood electric vehicles in lieu of multiple-beam road-lighting equipment specified in this section if the single distribution of light complies with the requirements of subsection (1)(b) of this section."

(7) Subsection 225 is amended by the addition of a new subsection (4):

"(4) This section shall not apply to electric motor vehicles."

(8) Subsection 226(2) is amended by the addition of the following sentence:

"This subsection (2) shall not apply to neighborhood electric vehicles."

(9) The last sentence of Subsection 234(1) is amended to read as follows:

"Bicycles and other human-powered vehicles and neighborhood electric vehicles shall be permitted but not required to display the emblem specified in this subsection."

(Ord. 1288 §1, 2008; Ord. 1297, 2008; Ord. 1354 2011)

Sec. 8-1-50. Penalty.

It is unlawful for any person to violate any of the provisions of the MTC, as amended by Section 8-1-50 above. The penalties set forth below shall apply to such violations. Fines shall be paid to the Municipal Court Clerk.

(1) Minimum mandatory fine. Any person convicted of or found liable for any violation under the MTC shall be punished by a fine of no less than the amount of the penalty assessment as set forth in Subsection 8-1-70(c) below for each violation for which the person is convicted. If no penalty assessment is set forth in Subsection 8-1-70(c) for violation, then the minimum fine for such offense shall be one hundred dollars ($100.00). Minimum fines are mandatory and shall not be suspended or reduced by any court, although execution of any minimum mandatory fine may be stayed for no longer than ninety (90) days or stayed pending an appeal or a rehearing.

(2) Maximum penalty.

a. In criminal actions, the maximum penalty for each conviction is as set forth in Paragraph 1-4-10(a)(1) of this Code.

b. In civil actions, the maximum penalty for each violation is a fine not to exceed the amount set forth in Paragraph 1-4-10(a)(2) of this Code.

(3) Discretion within minimum and maximum penalties. For each violation of the MTC for which a defendant is found liable or convicted, the court may set a fine, or for criminal violations, a fine and imprisonment, so long as the fine is not less than the minimum set in Paragraph (1) above. The court may suspend any part of a term of imprisonment, as well as that part only of a fine which exceeds the minimum set in Paragraph (1) above. Whenever a conviction or finding of liability is for the violation of one (1) of the MTC sections for which a penalty assessment is available under the schedule in Subsection 8-1-60(c) below, it is the policy of the Town Council that the court's judgment for that violation be no less severe than the "If Paid After Court Date" assessment figure for that violation, unless extenuating circumstances and justice manifestly so require. The reason for this

policy is to save administrative expenses by encouraging persons accused to elect to pay penalty assessments. (Prior code 10.04.060; Ord. 1288 §1, 2008; Ord. 1297 §§1, 3, 2008)

Sec. 8-1-60. Penalty assessment.

(a) Notice. A peace officer shall issue a penalty assessment notice for all traffic infractions under the MTC, as amended. At the time that a peace officer issues a summons for an alleged criminal violation of any section of the MTC which is listed in the schedule set forth in Subsection (c) below, the peace officer may offer a penalty assessment notice. Notwithstanding the foregoing, no penalty assessment notice shall be offered when the alleged violation has caused, or contributed to the cause of, an accident resulting in more than fifty dollars ($50.00) in damage to property or in any injury, including death, to any person; nor shall a penalty assessment notice be offered when the peace officer issuing the summons knows, or reasonably believes, that the alleged violator or vehicle has been involved in a criminal violation of any law of the Town for which there has been a conviction in a court of competent jurisdiction, and for which the sentence or judgment (be it fine or imprisonment) remains as yet unsatisfied. No person shall be entitled to elect to pay a penalty assessment under Subsection (b) below unless an offer of a penalty assessment notice has been made under this Subsection.

(b) Election. Any person offered a penalty assessment notice under Subsection (a) above may elect to pay the penalty assessment instead of proceeding to hearing or trial on the alleged violation. The amount of the penalty assessment shall be as provided in the schedule set forth in Subsection (c) below.

Payment of a penalty assessment constitutes complete satisfaction of the alleged violation if the prescribed payment is received at Town Hall by 5:00 p.m. on the day prior to the court date specified on the penalty assessment notice. Payment of a penalty assessment constitutes an acknowledgment of liability for the violation described in the summons or citation. If the person offered a penalty assessment notice elects not to make full and timely payment thereunder, an action on the alleged violation shall proceed as otherwise provided by law.

(c) Schedule. The following schedule sets forth the penalty assessments which may be offered for violations of Article I of the MTC. In the event a penalty assessment is not paid prior to the court hearing, the penalty assessment shall double. If penalty assessment for violation of other sections is not listed it shall be as prescribed in 42-4-1701, C.R.S.

Penalty Assessment Schedule		
	If Paid Prior To Court Date	*If Paid on or After Court Date*
Registration and Licensing:		
TMC 8-2-10	**$15.00**	**$ 30.00**
Bicycles, Skateboards, Rollerblades, etc., Violations:		
MTC 109	**15.00**	**30.00**
MTC 109.5	**30.00**	**60.00**
MTC 111	**30.00**	**60.00**
MTC 221	**15.00**	**30.00**
MTC 201	**35.00**	**70.00**
MTC 202-232, 234	**15.00**	**30.00**
MTC 233	**75.00**	**150.00**
MTC 235	**50.00**	**100.00**
MTC 236	**65.00**	**130.00**
MTC 1411, 1412	**15.00**	**30.00**

Penalty Assessment Schedule (Cont'd)		
	If Paid Prior To Court Date	*If Paid on or After Court Date*
Signals, Signs and Markings Violations:		
MTC 603	**$100.00**	**$200.00**
MTC 604	**100.00**	**100.00**
MTC 605	**70.00**	**140.00**
MTC 606	**15.00**	**30.00**
MTC 607	**50.00**	**100.00**
MTC 608(1)	**50.00**	**100.00**
MTC 608(2)	**15.00**	**30.00**
MTC 609	**15.00**	**30.00**
MTC 610	**15.00**	**30.00**
Rights-of-Way Violations:		
MTC 701	**70.00**	**140.00**
MTC 702	**70.00**	**140.00**
MTC 703	**70.00**	**140.00**
MTC 704	**70.00**	**140.00**
MTC 705	**70.00**	**140.00**
MTC 708	**35.00**	**70.00**
MTC 709	**70.00**	**140.00**
MTC 710	**70.00**	**140.00**
MTC 712	**70.00**	**140.00**
Pedestrian Violations:		
MTC 801	**15.00**	**30.00**
MTC 802	**30.00**	**60.00**
MTC 803	**15.00**	**30.00**
MTC 805	**15.00**	**30.00**
MTC 806	**70.00**	**140.00**
MTC 807	**70.00**	**140.00**
MTC 808	**70.00**	**140.00**
Turning and Stopping Violations:		
MTC 901	**70.00**	**140.00**
MTC 902	**70.00**	**140.00**
MTC 903	**70.00**	**140.00**

Penalty Assessment Schedule (Cont'd)		
	If Paid Prior To Court Date	*If Paid on or After Court Date*
Driving, Overtaking & Passing Violations:		
MTC 1001	**$ 70.00**	**$140.00**
MTC 1002	**100.00**	**200.00**
MTC 1003	**100.00**	**200.00**
MTC 1004	**100.00**	**200.00**
MTC 1005	**100.00**	**200.00**
MTC 1006	**70.00**	**140.00**
MTC 1007	**100.00**	**200.00**
MTC 1008	**100.00**	**200.00**
Speeding Violations:		
MTC 1101: 1–4 mph over limit	**30.00**	**60.00**
MTC 1101: 5–9 mph over limit	**70.00**	**140.00**
MTC 1101: 10–19 mph over limit	**135.00**	**270.00**
MTC 1101: 20–24 mph over limit	**200.00**	**400.00**
MTC 1101(3)	**100.00**	**200.00**
MTC 1103	**50.00**	**100.00**
Parking Violations:		
MTC 1201	**20.00**	**40.00**
MTC 1202	**20.00**	**40.00**
MTC 1203	**20.00**	**40.00**
MTC 1204 except 1204(2)(b) and (e)	**20.00**	**40.00**
MTC 1204(2)(b) & (e)	**50.00**	**100.00**
MTC 1205	**20.00**	**40.00**
MTC 1206	**20.00**	**40.00**
MTC 1207	**20.00**	**40.00**
MTC 1208(6) or (7)	**50.00**	**100.00**
MTC 1210	**20.00**	**40.00**
MTC 1211	**20.00**	**40.00**

Penalty Assessment Schedule (Cont'd)		
	If Paid Prior To Court Date	*If Paid on or After Court Date*
Other Violations:		
MTC 1402	**$150.00**	**$300.00**
MTC 1403	**50.00**	**100.00**
MTC 1404	**50.00**	**100.00**
MTC 1405	**20.00**	**40.00**
MTC 1406	**35.00**	**70.00**
MTC 1407	**35.00**	**70.00**
MTC 1408	**15.00**	**30.00**
MTC 1411	**15.00**	**30.00**
Motorcycle Violations:		
MTC 1502	**30.00**	**60.00**
MTC 1503	**30.00**	**60.00**
MTC 1504	**30.00**	**60.00**

(Prior code 10.04.070; Ord. 1297 §§1, 3, 2008)

ARTICLE 2

Operating, Standing, Stopping and Parking

Sec. 8-2-10. Registration and licensing.

(a) No person who owns a vehicle which must be registered pursuant to Title 42, Article 3, C.R.S., and which either is not so registered or does not have attached thereto and displayed thereon the number plates assigned thereto by the Colorado Department of Revenue for the current registration year, shall permit the vehicle to be operated or parked on any right-of-way in the Town.

(b) No person shall operate or park such a vehicle on any right-of-way in the Town.

(c) Such a vehicle on any right-of-way in the Town may be impounded under Section 8-3-30(13) of this Chapter. (Prior code 10.08.010)

Sec. 8-2-20. Prolonged idling of motor.

A person commits the offense of prolonged idling of a motor who, for a prolonged and unreasonable period of time, idles or permits the idling of the motor of any diesel-fuel-burning vehicle, any other motor vehicle or any refrigeration equipment on a vehicle. For the purposes of this Section, any period longer than thirty (30) seconds is a prolonged and unreasonable period of time; provided however, that this period shall be enlarged to three (3) minutes for starting an engine in cold weather. At all times during idling, the vehicle must be attended by a driver. This Section does not prohibit the idling of any motor when necessary to power the vehicle during the time required to perform a function for which the vehicle is designed; i.e., emptying solid waste containers, mixing cement and providing emergency medical services. (Prior code 10.08.020; Ord. 1288 §1, 2008)

Sec. 8-2-30. Inadequate muffling.

A person commits the offense of inadequate muffling who operates a motor vehicle which:

(1) Does not have on its exhaust a muffler which is in constant operation and in good working order, and which prevents excessive and unusual noise; or

(2) Has in operation a cutout, bypass or other muffler elimination appliance which results in the vehicle making excessive or unusual noise. (Prior code 10.08.030; Ord. 1288 §1, 2008)

Sec. 8-2-40. Parking during major festival events.

(a) Parking restriction. During any period of time designated as a major festival event, pursuant to Chapter 11, Article 4 of this Code, it is unlawful to park any motor vehicle on any public right-of-way in the Town, including all streets and alleys, except for:

(1) Vehicles registered in the County; or

(2) Vehicles driven by persons having authorized access.

Nothing in this Section makes it unlawful to park a motor vehicle in parking lots designated by the Town as lawful during major music festivals.

(b) Enforcement generally. The Model Traffic Code, as adopted in Section 8-1-20 of this Chapter, shall govern with respect to procedures applicable to a violation of this Section, and Paragraph 1-4-10(a)(2) of this Code shall govern with respect to the penalties.

(c) Towing. The Town Marshal and the Marshal's deputies are authorized to tow and impound any vehicle parked in violation of this Section. Article 3 of this Chapter shall govern procedures and fees in regard to towing and impounding. (Prior code 10.08.040)

Sec. 8-2-50. Seasonal parking restrictions for plowing.

In order to facilitate winter plowing, the Town Council may establish by resolution such seasonal parking restrictions as it deems necessary to promote the public good. Such restrictions may include, but are not limited to, alternate side parking restrictions, and 2:00 a.m. to 6:00 a.m. parking prohibitions on Colorado Avenue. (Prior code 10.08.050)

Sec. 8-2-60. Centerlane Commercial Loading Zone.

(a) Designation. A Centerlane Commercial Loading Zone is hereby established in the commercial core on Colorado Avenue. The loading zone shall be identified by lines painted in yellow on both sides of the centerline of Colorado Avenue and any other traffic control device deemed necessary.

(b) Purpose. The Centerlane Commercial Loading Zone shall be for commercial vehicles only which display a duly issued permit. Permits shall be issued by the Town Marshal's Office subject to the criteria promulgated by the Town Manager.

(c) It is unlawful for any vehicle to park in the Centerlane Commercial Loading Zone without a valid permit displayed.

(d) It is unlawful for any vehicle to park in the centerlane anywhere other than in the designated, marked Centerlane Commercial Loading Zone.

(e) Towing. Any vehicle parked in violation of this Section represents an obstruction, hazard or potential obstruction or hazard to public safety and/or limits the normal access to use of public or private property. In addition to all other available remedies, penalties, fines and assessments, the Town Marshal is authorized to tow and impound any vehicle parked in violation of this Section. (Prior code 10.08.060; Ord. 1288 §1, 2008)

Sec. 8-2-70. Failure to respond to summons.

It is unlawful for any person to fail to respond to a written summons given by the Town Marshal upon an arrest for any violation of this Chapter, or to fail to respond to any penalty assessment notice given by the Town Marshal for any violation of this Chapter, regardless of the disposition of the charge for which the summons or notice was served. (Prior code 10.08.070; Ord. 1288 §1, 2008)

Sec. 8-2-80. Presumption in reference to illegal parking.

(a) In any prosecution of any of the provisions governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was stopped, standing or parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such stopping, standing or parking the registered owner of such vehicle, shall constitute, in evidence, a prima facie presumption that the registered owner of such vehicle was the person who stopped, placed or parked such vehicle at the place where, and for the time during which, such violation occurred.

(b) Copies of the registration of any vehicle, certified as such by the Colorado Motor Vehicle Division or the County Clerk, shall be received as evidence to show the name of the registered owner of such vehicle. (Prior code 10.08.080; Ord. 1288 §1, 2008)

Sec. 8-2-90. Penalties.

(a) It is unlawful for any person to violate any provision of this Article.

(b) Schedule. The following schedule sets forth the penalty assessments which may be offered for violations of this Article. In the event the penalty assessment is not paid prior to the court date, the penalty assessment shall double:

Penalty Assessment Schedule		
TMC Section	If Paid Prior to Court Date	If Paid on or After Court Date
TMC 8-2-10	$15.00	$30.00
TMC 8-2-20	50.00	100.00
TMC 8-2-30	35.00	70.00
TMC 8-2-40	20.00	40.00
TMC 8-2-50	20.00	40.00
TMC 8-2-60	20.00	40.00

(Prior code 10.08.090; Ord. 1288 §1, 2008)

ARTICLE 3

Abandonment and Impoundment

Sec. 8-3-10. Abandonment unlawful.

(a) A person commits abandonment of a motor vehicle who abandons any motor vehicle upon any street, highway, right-of-way or other public property, or upon any private property without the express consent of the owner or person in lawful charge of the property.

(b) To *abandon*, in this Section, means to leave the vehicle with the intention not to retain possession of it or not to assert ownership over it.

(c) The following circumstances are prima facie evidence of the necessary intent:

(1) The motor vehicle has been left for more than thirty (30) days unattended and unmoved;

(2) License plates or other identifying marks have been removed from the motor vehicle; or

(3) The owner has been notified by a law enforcement agency to remove the motor vehicle, and it has not been removed within three (3) days after notification. (Prior code 10.12.010)

Sec. 8-3-20. Impoundment authority.

(a) Members of the Town Marshal's Department are authorized to remove, have removed at their direction or impound any vehicle, including temporary immobilization, under the circumstances enumerated in Sections 8-3-30 and 8-3-40 below. Such vehicle may be immobilized on or removed from any street, alley, highway, roadway, sidewalk, ditch or other public place, and from any restricted or prohibited parking area or, in the case of Subsection 8-3-30(10) below, from private property, to any place certified by the Town Manager or Town Marshal for the storage of impounded vehicles.

(b) Whenever the Town Marshal's Department finds a vehicle standing upon a street, highway or public way in violation of this Chapter prohibiting the standing of such vehicle in such place, the Town Marshal's Department is hereby authorized to move or remove such vehicle, or require the driver or other person in charge of the vehicle to move it, to a legal standing position. (Prior code 10.12.020)

Sec. 8-3-30. Impoundment grounds.

The following circumstances constitute a public nuisance or an obstruction to traffic for purposes of the Town Marshal's Department's authority to immobilize, remove or impound a vehicle under Section 8-3-20 above:

(1) When any vehicle is left unattended upon any bridge, or where such vehicle constitutes an obstruction to traffic.

(2) When any vehicle is left unattended upon a street or parked illegally so as to constitute a definite hazard or obstruction to the normal movement of traffic, left unattended on any public street with the engine running, or left idling in violation of Section 8-2-20 of this Chapter.

(3) When the driver of the vehicle is incapacitated (by injury, illness or other cause) to such an extent as to be unable to remove the vehicle from a street, highway, restricted parking area or other public way.

(4) When any vehicle is parked, left standing or left unattended upon any area or portion of public street in violation of or contrary to a parking limitation or prohibition established by the Traffic Engineer, provided that such area or portion of such public street has been posted with an official sign giving notice of such limitation or prohibition and that the area or portion of such public street is a "tow-away" area.

(5) When any vehicle is parked in violation of any traffic ordinance or provision of this Code and is an obstruction, hazard or potential obstruction or hazard to any lawful law enforcement or public safety function, or limits the normal access to use of any public or private property.

(6) When any vehicle appears to have been abandoned or has been left in one (1) place on any public street or public property continuously for more than seventy-two (72) hours after notice is posted on the windshield that the vehicle will be impounded.

(7) When any vehicle is reasonably suspected to have been involved in a hit-and-run accident or to be a stolen vehicle, or its parts to be stolen parts.

(8) When the driver of any vehicle is taken into custody for a suspected offense or when the vehicle is reasonably suspected to contain stolen goods or other contraband, and the vehicle would thereby be left unattended upon a street, highway, restricted parking area or other public way.

(9) When any motor vehicle, by reason of having no muffler or of having a defective or inadequate muffler, emits an excessive or unusual noise.

(10) When a vehicle is parked upon private property without permission of the owner or occupant thereof.

(11) When the records of the Town Marshal's Department indicate that a parking, standing or stopping violation citation has been issued to the driver, owner or person in charge of the vehicle and has not been paid or otherwise legally disposed of, and such person has failed to respond to the additional notice provided for in Subsection 8-3-40(d) below.

(12) When there is an outstanding lien on the vehicle for unpaid municipal use tax and the Town Manager or Town Attorney orders the impoundment or towing for purposes of enforcing the lien.

(13) When any vehicle which must be registered pursuant to Section 42-3-101 et seq., C.R.S., and which either is not so registered or does not have attached thereto and displayed thereon the proper license plates or license permit assigned thereto by the Colorado Department of Revenue for the current registration year, is parked or operated on any right-of-way of the Town.

(14) When any vehicle is parked or stopped in an emergency access lane in violation of or contrary to a parking limitation or prohibition established by the Traffic Engineer, provided that such emergency access lane has been posted with an authorized sign giving notice both of such limitation or prohibition and of the fact that such area or portion of such public roadway or private property is a "tow-away" area.

(15) When any vehicle is stopped, parked, left standing or left unattended in violation of Section 8-2-40 of this Chapter.

(16) When any nonmotorized vehicle is stopped, parked or left standing on any public street, right-of-way or in any public parking lot for more than seventy-two (72) hours or for the principal purpose of storage for more than seventy-two (72) hours. (Prior code 10.12.030; Ord. 1288 §1, 2008)

Sec. 8-3-40. Temporary immobilization.

(a) Under the circumstances set forth in Paragraphs 8-3-30(6) through 8-3-30(13) or 8-3-30(15) above, employees of the Town, acting in their official capacity, and officers of the Town Marshal's Department may, and they are hereby authorized to, temporarily and for a period of seventy-two (72) hours, immobilize such vehicles by installing on or attaching to such vehicle a device designed to restrict the normal movement of such vehicle. If such vehicle is so immobilized, the person installing or attaching such device shall conspicuously affix to such vehicle a notice, in writing, on a form provided by the Town Marshal, advising the owner, driver or person in charge of such vehicle that such vehicle has been immobilized by the Town for violation of one (1) or more specified provisions of this Chapter, and that release from such immobilization may be obtained at a designated place; that, unless arrangements are made for the release of such vehicle within seventy-two (72) hours, the vehicle will be removed from the streets at the direction of the Town Marshal's Department, by employees of the Town acting in their official capacity, or by an agent of the Town; and that removing or attempting to remove the device before a release is obtained is unlawful, and containing such information as the Town Marshal shall deem necessary.

(b) It is unlawful for any person to remove or attempt to remove any such device before a release is obtained as herein provided, or to move any such vehicle before the same is released by the Town Marshal's Department, Municipal Court Clerk or Municipal Judge; and where such vehicle has been properly immobilized in such a manner, a fee shall be charged by the Town Marshal's Department, Municipal Court Clerk or Municipal Judge before releasing such vehicle, in accordance with Section 8-3-50 below.

(c) Parking restrictions, if any, otherwise applicable shall not apply while such vehicle is so immobilized. If the vehicle has remained immobilized for a period of seventy-two (72) hours and release has not been obtained, the Town Marshal's Department or employee of the Town causing such immobilization shall have the vehicle removed and impounded.

(d) If a violator of the restrictions on idling, stopping, standing or parking under this Chapter does not respond to a penalty assessment notice affixed to such motor vehicle, by appearance at the Municipal Court at the date and time specified in the notice, by previously arranging for payment with the Municipal Court Clerk or by other disposition of the charge, the Municipal Court Clerk shall send a notice that default judgment has been entered by the Court, by mail to the registered owner of the vehicle to which the original summons or notice was affixed. If the mailed notice is disregarded for a period of seven (7) days and the owner has not appeared at the Municipal Court Clerk's office or Town Marshal's Department and made payment, the vehicle upon which the illegally parked notice was affixed may be temporarily immobilized and impounded in accordance with this Article or the Town may exercise any available legal remedy. (Prior code 10.12.040; Ord. 1288 §1, 2008)

Sec. 8-3-50. Fees.

(a) For any vehicle immobilized or towed pursuant to Section 8-3-20 above, there shall be charged an immobilization fee if applicable; a towing fee; and an impound fee for each and every day the vehicle remains in the Town's custody. For purposes of assessing fees under this Section, a vehicle shall be considered to be in the Town's custody when such vehicle is held or impounded on property owned or leased by the Town. Fines are payable to the Municipal Court Clerk. Fees are payable to the individual or entity with whom the Town has contracted to provided towing, immobilization and impound services, if any. If the Town is providing such services, fees for such services shall be payable to the Municipal Court Clerk. The immobilization fee, the towing fee and impound fee shall be established annually by a resolution of the Town Council.

(b) No vehicle removed and/or impounded under Section 8-3-20 above shall be released until any fees for immobilization, towing or impoundment have been paid, waived or otherwise disposed of.

(c) In the event that, for any reason, the defendant is not found liable for a violation of this Chapter, the Municipal Court may order the return of all or any part of the towing and impoundment fees.

(d) The Town Marshal, Municipal Judge and Municipal Court Clerk shall be and are hereby authorized and empowered to waive or adjust any charges imposed by or described in this Section whenever in their judgment it would be inequitable or result in an injustice to collect or require the payment of such charges. Charges resulting from the following circumstances will routinely be waived or refunded if previously paid, unless exceptional circumstances (such as failure to claim a vehicle within a reasonable period of time) make the collection of charges proper:

(1) When the vehicle was impounded as a result of the operator being taken into custody and the operator has been released without charges being filed;

(2) When the vehicle licensed in the County was reported as stolen and subsequently was recovered and impounded by the police; or

(3) When a vehicle has accumulated storage charges while being held as evidence, if the operator is not convicted of an offense associated with the impoundment. (Prior code 10.12.050)

Sec. 8-3-60. Notice and hearing.

Within five (5) days of the impoundment of any vehicle by the Town, and if the vehicle is not first reclaimed, the Town Marshal's Department shall mail written notice of removal and impoundment to the registered owner of the vehicle, the reason therefor, and the place to which such vehicle has been removed. The written notice shall advise the owner of his or her right to file, within ten (10) days, a written demand for a probable cause hearing in the Municipal Court.

Within five (5) days of receipt of such written demand, excluding weekends and holidays, the Municipal Court shall conduct a post-deprivation hearing for the purpose of determining whether there was probable cause to impound the vehicle. The Town shall have the burden of proof at the hearing. If there is a finding of no probable cause, the vehicle must be released and towing or storage fees shall be reimbursed to the owner. (Prior code 10.12.060)

Sec. 8-3-70. Penalties.

Violation of any portion of this Article is a civil matter to be tried before the Municipal Court without right to jury trial. The maximum fine upon a finding of liability for any violation of this Article shall be a fine not to exceed the amount set forth in Paragraph 1-4-10(1)(a) of this Code. No person found liable under this Article shall be punished by imprisonment. (Prior code 10.12.070; Ord. 1288 §1, 2008)

CHAPTER 10

General Offenses

Article 1 General Provisions
Sec. 10-1-10 Definitions

Article 2 Government and Public Officers
Sec. 10-2-10 Obstructing governmental operations
Sec. 10-2-20 Impersonating a peace officer or public servant
Sec. 10-2-30 Obstructing a peace officer or firefighter
Sec. 10-2-40 Resisting arrest
Sec. 10-2-50 Escape
Sec. 10-2-60 Aiding escape
Sec. 10-2-70 False reporting to authorities
Sec. 10-2-80 Refusing to aid police officer

Article 3 Streets and Public Places
Sec. 10-3-10 Obstructing passage

Article 4 Public, Private and Personal Property
Sec. 10-4-10 Unlawful conduct
Sec. 10-4-20 Criminal mischief
Sec. 10-4-30 Injuring public or private property
Sec. 10-4-40 Desecrating venerated objects
Sec. 10-4-50 Trespassing
Sec. 10-4-60 Camping and activities on public property
Sec. 10-4-70 Arson
Sec. 10-4-80 Bonfires
Sec. 10-4-90 Removal of earth
Sec. 10-4-100 Littering
Sec. 10-4-110 Stealing
Sec. 10-4-120 Theft
Sec. 10-4-130 Theft of rental property
Sec. 10-4-140 Shoplifting
Sec. 10-4-150 Price switching
Sec. 10-4-160 Criminal tampering

Article 5 Public Peace, Order and Decency
Sec. 10-5-10 Unlawful conduct
Sec. 10-5-20 Menacing
Sec. 10-5-30 Battery
Sec. 10-5-40 Reckless endangerment
Sec. 10-5-50 Abandoned containers and appliances
Sec. 10-5-60 Throwing stones or missiles
Sec. 10-5-70 Public urination and defecation
Sec. 10-5-80 Unlawful use of fireworks
Sec. 10-5-90 Failure to report treatment of wounds
Sec. 10-5-100 Failure to report suicide or suicide attempt

Article 6 Discriminatory Practices
Sec. 10-6-10 Definitions
Sec. 10-6-20 Prohibited practices
Sec. 10-6-30 Penalties
Sec. 10-6-40 Civil liability
Sec. 10-6-50 Other penalties

Article 7 Alcoholic Beverages
Sec. 10-7-10 Open container

Article 8 Weapons
Sec. 10-8-10 Definitions
Sec. 10-8-20 Unlawful use of weapons
Sec. 10-8-30 Immunity for peace officers
Sec. 10-8-40 Possessing an illegal weapon

Article 9 Hang Gliding Regulations
Sec. 10-9-10 Definitions
Sec. 10-9-20 Regulations
Sec. 10-9-30 Penalties

Article 10 Panhandling
10-10-10 Purpose
10-10-20 Definitions
10-10-30 Prohibited Panhandling Activities
10-10-40 Penalties

ARTICLE 1

General Provisions

Sec. 10-1-10. Definitions.

For purposes of this Chapter, the following words shall have the meanings ascribed to them:

Act means:

a. Any bodily movement, including the uttering of words; or

b. The possession of property.

Aid and *assist* mean to knowingly make possible or further an activity by:

a. Giving or lending money, or extending credit; or

b. Acting in any other way which naturally tends towards accomplishing the intended results of the activity aided or assisted.

Attempt means a substantial step toward the commission of the deed. A *substantial step* means any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the deed.

Bodily injury means physical pain, illness of any kind or any impairment of physical or mental condition.

Conduct means an act or omission and its accompanying state of mind. Where applicable, *conduct* also means a series of acts or omissions and their accompanying states of mind.

Criminal negligence means conduct wherein the actor or omitter, through a gross deviation from the standard of care that a reasonable person would exercise, fails to perceive a substantial probability that an unjustifiable result will occur or that an unjustifiable circumstance exists.

Culpable mental state means a blameworthy frame of mind which included the psychic component of committing prohibited conduct in any of the following ways: intentionally, knowingly, willfully, recklessly or with criminal negligence.

Intentionally or *with intent*: There are two (2) kinds of mental states accompanying conduct which qualify the conduct as being done *intentionally* or *with intent* to achieve specified results. In neither case does it matter, for purposes of establishing intent, whether the results are actually achieved.

a. *Actual intent* means the actual conscious design, purpose or objective to commit the conduct in order to achieve the results.

b. *Putative intent*: When, in the estimation of any reasonable person, the conduct itself is virtually certain to give rise to specified results, it shall not matter whether or not the person consciously desired, or strove for, those results, for every person shall be deemed to intend the virtually certain consequences of his or her conduct.

Omission means a failure to perform an act as to which a duty of performance is imposed by law.

Peace officer means any sheriff, undersheriff, deputy sheriff, police officer, state patrol officer, coroner, marshal, deputy marshal; any officer, guard, supervisor or employee of any institution within the Department of Corrections; any district attorney, assistant district attorney, deputy district

attorney or special deputy district attorney; any authorized investigator working directly or indirectly for any district attorney, for the Attorney General or for any grand jury; any probation or parole officer; any officer or member of the Colorado National Guard while acting under call of the Governor in cases of emergency or civil disorder; any agent of the Colorado Bureau of Investigation; any member of an investigative body formed under the laws of the State to help enforce laws against organized crime or racketeering; any district wildlife manager; any parks and recreation officer; or any security guard employed by the State.

Public place means any place commonly or usually open to the general public or to which members of the general public may resort, or accessible to members of the general public. By way of illustration, such public places include but are not limited to public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, places of business usually open to the general public and automobiles or other vehicles in or upon any such place or places, but shall not include the interior or enclosed yard area of private homes, residences, condominiums or apartments.

Recklessly characterizes the conduct of a person who consciously disregards a substantial risk that an unjustifiable result will occur or that an unjustifiable circumstance exists.

Serious bodily injury means bodily injury which involves a substantial risk of:

a. Death;

b. Serious permanent disfigurement; or

c. Protracted loss or impairment of the function of any part or organ of the body.

Voluntary act means an act performed consciously and as the result of effort or determination. If the act is possession of property, in order for the act to be a voluntary act, the actor must be aware of his or her possession or control of the property for a period sufficiently long to enable the actor to terminate that possession. (Prior code 1.04.020; Ord. 1288 §1, 2008)

ARTICLE 2

Government and Public Officers

Sec. 10-2-10. Obstructing governmental operations.

(a) A person commits obstructing governmental operations if he or she intentionally obstructs, impairs or hinders the performance of a governmental function by a public servant by using, or threatening to use, violence, force or physical interference or obstacle.

(b) It is an affirmative defense that the obstruction, impairment or hindrance was of unlawful action by a public servant, was of making an arrest or was by lawful activities in connection with a labor dispute with the government. (Prior code 9.04.030; Ord. 1288 §1, 2008)

Sec. 10-2-20. Impersonating a peace officer or public servant.

A person commits impersonating a peace officer or public servant if he or she falsely pretends to be a peace officer or public servant and performs any act whatsoever in that pretended capacity. It is no defense to a prosecution under this Section that the actor pretended to hold an office which did not in fact exist. (Prior code 9.04.020; Ord. 1288 §1, 2008)

Sec. 10-2-30. Obstructing a peace officer or firefighter.

A person commits this offense if he or she knowingly drives a vehicle to or close by the scene of a fire, explosion, traffic accident, riot, impending riot or other disaster in such a manner as to obstruct or impede the arrival, departure or operation of any fire truck, police vehicle, ambulance or other emergency vehicle, or if he or she willfully fails to move his or her vehicle from the scene when ordered to do so by a peace officer, firefighter or other emergency personnel who are acting under color of his or her authority in performing their duties in coping with the emergency. (Prior code 9.04.040; Ord. 1288 §1, 2008)

Sec. 10-2-40. Resisting arrest.

(a) A person commits resisting arrest if he or she knowingly prevents or attempts to prevent a peace officer, whether in or out of uniform, who has identified himself or herself as such by exhibiting credentials, or who is known to the person as a peace officer, acting under color of his or her authority, from effecting an arrest, either of the actor or of another person, by the use or threatened use of force or physical violence, or by any other means which create a substantial risk of bodily injury to such peace officer.

(b) It is not a defense to a prosecution under this Section that the peace officer was attempting to make an arrest which was in fact 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 did not resort to unreasonable or excessive force giving rise to the right of self-defense.

(c) A peace officer is acting *under color of his or her official authority*, when, in the regular course of duty, the peace officer's conduct is founded on good-faith judgment in consideration of the surrounding facts and circumstances. (Prior code 9.04.060; Ord. 1288 §1, 2008)

Sec. 10-2-50. Escape.

A person commits escape if, while being in custody or confinement for any alleged offense, he or she knowingly escapes or attempts to escape from such custody or confinement. For purposes of this Section, the custody or confinement may be pursuant to any stage of the criminal process, from the initial arrest to imprisonment pursuant to a conviction and sentence. Custody may be effected by a peace officer or a person duly empowered to assist a peace officer. (Prior code 9.04.070; Ord. 1288 §1, 2008)

Sec. 10-2-60. Aiding escape.

A person commits assisting escape who knowingly aids, abets, renders assistance to, attempts to rescue or makes any tool or implement calculated to aid in escape available to any person or dog in custody or confinement under authority of the Town. (Prior code 9.04.080)

Sec. 10-2-70. False reporting to authorities.

A person commits false reporting to authorities if he or she:

(1) Knowingly causes a false alarm of fire or other emergency to be transmitted to an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or to property; or

(2) Makes or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish useful information relating to an offense or another incident within their official concern, knowing that he or she does not have such information or that such information is false. (Prior code 9.04.010)

Sec. 10-2-80. Refusing to aid police officer.

A person eighteen (18) years of age or older commits refusing to aid a peace officer when, 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 in preventing another from committing an offense. (Prior code 9.04.050; Ord. 1288 §1, 2008)

ARTICLE 3

Streets and Public Places

Sec. 10-3-10. Obstructing passage.

A person commits obstructing passage when he or she:

(1) Renders passage impossible, unreasonably inconvenient or unreasonably hazardous on any highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public, or a substantial group of the public, has access, or any other place used for the passage of persons, vehicles or conveyances, whether alone or in concert with others; or

(2) Disobeys a reasonable request or order to move issued by a person he or she knows to be a peace officer, firefighter or person with authority to control the use of the premises, to prevent the obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

For purpose of subsection (1) above, attaching any obstructions to the perimeter fencing or railings that delineate licensed outdoor dining areas upon public sidewalks or any other public area, including, but not limited to, strollers, bicycles, the hitching of animals, or any other obstructions, shall constitute a violation of this provision. (Prior code 9.16.020; Ord. 1288 §1, 2008; Ord. 1349, 2011)

ARTICLE 4

Public, Private and Personal Property

Sec. 10-4-10. Unlawful conduct.

The conduct set out in this Article is unlawful. (Prior code 9.12.010)

Sec. 10-4-20. Criminal mischief.

A person commits criminal mischief when he or she, without authorization, knowingly causes less than two hundred dollars ($200.00) worth of damage to the real or personal property of another person. (Prior code 9.12.020; Ord. 1288 §1, 2008)

Sec. 10-4-30. Injuring public or private property.

A person injures public or private property when he or she, without authorization, intentionally or knowingly injures, defaces, mutilates, removes, fells, pulls down, breaks, interferes with, molests or secretes upon any trees, landmarks, survey markers, signs, posted notices, traffic-control devices or any real or personal property belonging to the Town or to another person. (Prior code 9.12.030; Ord. 1288 §1, 2008)

Sec. 10-4-40. Desecrating venerated objects.

(a) A person desecrates a venerated object who knowingly desecrates any public monument, structure or place of worship or burial or who desecrates in a public place any object venerated by a substantial segment of the public.

(b) The term *desecrate* means defacing, damaging, polluting or otherwise physically mistreating, with the knowledge that the action would outrage the sensibilities of persons likely to observe or discover these iconoclastic actions or their result. (Prior code 9.12.150; Ord. 1288 §1, 2008)

Sec. 10-4-50. Trespassing.

(a) A person commits trespassing when he or she knowingly without legal privilege:

(1) Enters on, or remains upon, the premises of another, but this Subsection does not prohibit the entering into or remaining in a building as defined in the Land Use Code.

(2) Places personal property on the premises of another.

(3) Fails or refuses to leave or to remove the personal property from such premises when requested to do so by the owner, occupant or person having lawful control thereof.

(b) Entering or placing personal property on the premises of another is not a trespass if one has permission from the owner or owner's agent. *Premises*, in this Section, means real property, buildings and other improvements thereon and the stream banks and beds of any streams flowing through such real property. (Prior code 9.12.040; Ord. 1288 §1, 2008)

Sec. 10-4-60. Camping and activities on public property.

(a) Except within officially designated campgrounds or camping areas, it is unlawful for any person to camp or sleep overnight in or on any Town-owned park, open space or other public property, or remain within or on such lands beyond the hours of authorized public access or use.

(b) The Town Manager shall establish hours for public access to Town-owned park, open space and other public lands, and may promulgate and publish such additional regulations as necessary to control public uses and activities thereon. Such regulations shall have the force of law, and violations thereof shall be prosecuted as violations of this Section.

(c) Camping or sleeping overnight within or on Town-owned parks, open space or other public land for authorized events may be allowed pursuant to a permit as issued by the Town Manager. (Prior code 9.12.170; Ord. 1288 §1, 2008)

Sec. 10-4-70. Arson

A person commits arson when he or she knowingly or recklessly starts or maintains a fire or causes an explosion on his or her own or another's property, and by doing so places no person in danger of death or serious bodily injury, but does place in danger or damage any building, structure or other property. (Prior code 9.12.110; Ord. 1288 §1, 2008)

Sec. 10-4-80. Bonfires.

A person commits the offense of lighting bonfires who lights or knowingly allows to be lit an outdoor fire of any kind, except:

(1) Campfires in sites in any camp site designated as permissible for such use;

(2) A fire necessary for public purposes and authorized in writing by the Town Manager or the Fire Chief; and

(3) A fire contained within a stone or metal fire pit and used primarily for the cooking or smoking of food. (Prior code 9.12.120; Ord. 1288 §1, 2008)

Sec. 10-4-90. Removal of earth.

A person commits the offense of removing earth who, without authorization, moves, disturbs or takes any earth, stone or other material from any public street, alley, park or other public property. (Prior code 9.12.130; Ord. 1288 §1, 2008)

Sec. 10-4-100. Littering.

(a) A person commits littering who, not being in lawful possession of any premises, deposits, throws or leaves litter thereon, unless the litter is placed in a receptacle installed on the premises for litter, or unless the premises are designated as a lawful dump site.

(b) Whenever litter is discharged from any motor vehicle in violation of this Section, the operator of the motor vehicle shall be presumed to have caused or permitted the litter to have been discharged therefrom.

(c) The term *litter*, as used in this Section, means any reusable material, recyclable material, rubbish, waste material, refuse, garbage, trash, debris, excrement or other foreign substance, solid or liquid, of every form, size, kind or description.

(d) The court, upon conviction of any person under this Section and the imposition of a fine or prison term, may suspend the sentence on the condition that the convicted person gather and remove all litter found on a specified piece of public or private property. (Prior code 9.12.140; Ord. 1288 §1, 2008; Ord. 1302, 2009)

Sec. 10-4-110. Stealing.

A person commits the offense of stealing when he or she conducts one (1) or more of the acts set out in Sections 10-4-120 through 10-4-150. (Prior code 9.12.060; Ord. 1288 §1, 2008)

Sec. 10-4-120. Theft.

A person commits theft when he or she, either without authorization or by threat or by deception, knowingly obtains or exercises control over any valuable thing of another which has a worth of less than two hundred dollars ($200.00) and:

(1) Intends permanently to deprive the other person 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 permanently deprive the other person of its use or benefit;

(3) Uses, conceals or abandons the thing of value intending that this will permanently deprive the other person of its use or benefit; or

(4) Demands any unentitled consideration as a condition of restoring the thing of value to the other person. (Prior code 9.12.070; Ord. 1288 §1, 2008)

Sec. 10-4-130. Theft of rental property.

A person commits theft of rental property when he or she:

(1) Obtains the temporary use of another's personal property, which has a worth of less than two hundred dollars ($200.00) and which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or

(2) Having lawfully obtained possession (for temporary use) of another's personal property, which has a worth of less two hundred dollars ($200.00) and which is available only for hire, knowingly fails, within seventy-two (72) hours after the time at which he or she agreed to return it, to reveal the whereabouts of or return the property to its owner, to the owner's representative or to the person from whom he or she has received it. (Prior code 9.12.080; Ord. 1288 §1, 2008)

Sec. 10-4-140. Shoplifting.

A person commits the offense of shoplifting when he or she, with intent to avoid making payment, intentionally conceals or carries away or

knowingly aids another to conceal or carry away unpurchased merchandise having a worth of less than two hundred dollars ($200.00) and owned or offered for sale by any store or other mercantile establishment. Concealment of goods shall be prima facie evidence of intent to avoid making payment. (Prior code 9.12.090; Ord. 1288 §1, 2008)

Sec. 10-4-150. Price switching.

A person commits price switching when he or she, with the intent to avoid paying the full price set by such store or mercantile establishment, willfully alters, removes or switches the indicated price of any unpurchased goods offered for sale at any store or mercantile establishment. (Prior code 9.12.100; Ord. 1288 §1, 2008)

Sec. 10-4-160. Criminal tampering.

A person commits the offense of criminal tampering when he or she:

(1) With intent to cause interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, tampers with any property of such utility or institution.

(2) Knowingly makes any unauthorized connection with property of a utility, whether physically, electrically, inductively or otherwise.

(3) With intent to cause injury, inconvenience or annoyance to another person, interferes with, meddles with or makes unwarranted alterations in the condition of the property of that person or of another person. (Prior code 9.12.050; Ord. 1288 §1, 2008)

ARTICLE 5

Public Peace, Order and Decency

Sec. 10-5-10. Unlawful conduct.

The conduct described in this Article is unlawful. (Prior code 9.08.010)

Sec. 10-5-20. Menacing.

A person commits menacing when he or she, with any culpable mental state, by threat or by physical action, but without using a deadly weapon, knowingly places or attempts to place another person in fear of imminent injury. (Prior code 9.08.030; Ord. 1288 §1, 2008)

Sec. 10-5-30. Battery.

A person commits the offense of battery when he or she, with any culpable mental state, causes bodily injury to another person. (Prior code 9.08.020; Ord. 1288 §1, 2008)

Sec. 10-5-40. Reckless endangerment.

A person commits the offense of reckless endangerment when he or she recklessly engages in conduct which creates a substantial risk of bodily injury to another person. (Prior code 9.08.040; Ord. 1288 §1, 2008)

Sec. 10-5-50. Abandoned containers and appliances.

A person commits the offense of abandoning dangerous containers and appliances when he or she abandons or discards, in any place accessible to children, any chest, closet, piece of furniture, refrigerator, icebox, motor vehicle or other article having a compartment of a capacity of one and one-half (1½) cubic feet or more and having a door or lid which, when closed, cannot easily be opened from the inside, or when he or she, being the owner, lessee or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition. (Prior code 9.12.160; Ord. 1288 §1, 2008)

Sec. 10-5-60. Throwing stones or missiles.

A person commits the offense of throwing missiles who projects any stone, snowball or other missile or discharges any bow, blowgun,

slingshot, gun, catapult or other such device at or against:

(1) Any vehicle or other equipment designed for the transportation of persons or property;

(2) Any animal, building, tree, shrub or other public or private property; or

(3) Any person anywhere. (Prior code 9.16.030; Ord. 1288 §1, 2008)

Sec. 10-5-70. Public urination and defecation.

(a) No person shall urinate or defecate within the Town on any public property or public right-of-way 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.

(b) No person shall urinate or defecate within the Town on any private property without the express permission of the owner and then only if shielded from the view of the general public. No owner of any private property shall permit any person to urinate or defecate on his or her property which creates a sanitation problem or endangers another person's comfort, health, peace or safety.

(c) Penalty. Any person, upon conviction of a violation of any provision of this Section, shall be subject to a maximum penalty as set forth in Section 1-4-10 of this Code for each separate offense. Each violation constitutes a separate offense under this Section. (Prior code 9.16.080)

Sec. 10-5-80. Unlawful use of fireworks.

(a) A person commits unlawful use of fireworks when he or she knowingly displays, sells, casts, throws, lights or fires any fireworks without written authorization from the Town Marshal.

(b) *Fireworks*, as used in this Section, means any squib, rocket, cracker, torpedo, grenade, gun, revolver, pistol, cap, cartridge or other combustible firecrackers of any kind.

(c) Nothing in this Section shall prohibit the display, sale or use of traffic signaling flares, photographic flash equipment or public fireworks displays, conducted under the supervision of and with the permission of the Town Marshal or Fire Chief. (Prior code 9.16.050; Ord. 1288 §1, 2008)

Sec. 10-5-90. Failure to report treatment of wounds.

(a) A person commits failure to report treatment of wounds when he or she, being a licensed physician of any kind, and having been called upon to treat any person for a wound which was probably caused by any deadly weapon, fails to notify the Town Marshal's office within one (1) hour of the time when the professional services were sought.

(b) Each complete hour during which the physician fails to make a report is a separate offense. (Prior code 9.16.060)

Sec. 10-5-100. Failure to report suicide or suicide attempt.

(a) A person commits failure to report a suicide or suicide attempt when he or she, having become aware of another person's death which a reasonable person would suspect to be a possible suicide, or having become aware of another person's conduct which a reasonable person would suspect to be a possible suicide attempt, fails, within one (1) hour of becoming aware, to report such death or conduct to the Town Marshal's office.

(b) It is an affirmative defense to a prosecution under this Section that the person had reasonable grounds to believe that the Town Marshal's office had already learned of the death or conduct prior to the person's becoming aware of it. (Prior code 9.16.070; Ord. 1288 §1, 2008)

ARTICLE 6

Discriminatory Practices

Sec. 10-6-10. Definitions.

For the purpose of this Article, unless otherwise apparent from the context, certain words and phrases used in this Article are defined as follows:

Discrimination or *to discriminate* means, without limitation, any act that results in the unequal treatment or separation of any person or denies, prevents, limits or otherwise adversely affects the benefit or enjoyment by any person of employment, ownership or occupancy of real property, public services or accommodations because of that person's sexual orientation, defined as a person's heterosexuality, homosexuality or bisexuality; race; color; creed; religion; ancestry; national origin; gender, which shall include but not be limited to, discrimination on the basis of pregnancy or childbirth; age; marital status; physical or mental disabilities, provided, however, that this term shall exclude disabilities that would constitute a direct threat to the housing or the safety of others; family responsibility; military status; or political affiliation. Under the terms of this provision, the physical condition of an existing building or structure shall not, of itself, constitute discrimination.

Housing means any building, structure, vacant land or part thereof during the period it is advertised, listed or offered for sale, lease, rent or transfer of ownership, and during the period while it is being sold, leased or rented.

Person means any individual, firm, partnership, corporation, association, organization, unincorporated organization, labor union, government agency, incorporated society, statutory or common law trust, estate executor, administrator, receiver, trustee, conservator, liquidator, trustee in bankruptcy, committee, assignee, officer, employee, principal or agent, legal or personal representative, real estate broker, salesman or any agent or representative of any of the above.

Public services or accommodations means any place of business engaged in any sales to the public and any place offering services, facilities, advantages or accommodations to the public. (Prior code 11.04.010)

Sec. 10-6-20. Prohibited practices.

(a) Discriminatory employment practices prohibited. It is unlawful for any person who is an employer or employment agency, directly or indirectly, to discriminate against any person with regard to application for employment, hiring, occupational training, tenure, promotion, compensation, layoff, discharge or any other term or condition of employment except when based upon a bona fide occupational qualification. Under the terms of this provision, heterosexuality shall not be considered a bona fide occupational qualification.

(b) Discriminatory housing practices prohibited. It is unlawful for any person, directly or indirectly, to discriminate against any other person with respect to the acquisition, occupancy, use and enjoyment of any housing, including the sale, transfer, rental or lease thereof. This Subsection shall not apply to a person who seeks to share a dwelling unit with another person from limiting lessees or tenants to members of one (1) gender.

(c) Discriminatory public services and accommodations practices prohibited. It is unlawful for a person engaged in providing services or accommodations to the public, directly or indirectly, to discriminate against any other person by refusing to allow the full and equal use and enjoyment of the goods, services, facilities, privileges, advantages, including accommodations, and the terms and conditions under which the same are made available to the public generally. (Prior code 11.04.020; Ord. 1288 §1, 2008)

Sec. 10-6-30. Penalties.

Any person who violates the provisions of Section 10-6-20 above shall be deemed guilty of an offense and, upon conviction thereof, shall be punished by a penalty as set forth in Paragraph 1-4-10(a)(1) of this Code for each separate offense. Each day any violation continues shall constitute a separate offense. (Prior code 11.04.030; Ord. 1288 §1, 2008)

Sec. 10-6-40. Civil liability.

Any person claiming to be aggrieved by an unlawful discriminatory act shall have a cause of action in any court of competent jurisdiction for compensatory damages, punitive damages or both, and such other remedies as may be appropriate, including specifically the issuing of restraining orders and such temporary or permanent injunctions as are necessary to obtain complete compliance with this Article. (Prior code 11.04.040)

Sec. 10-6-50. Other penalties.

Whenever it appears that the holder of a permit, license, franchise, benefit or advantage issued by the Town is in violation of this Article, the Town, notwithstanding any other action it may take or may have taken under the authority of the provisions of this Article, may, after an appropriate hearing, take such action regarding the temporary or permanent suspension of the violator's Town business license, permit, franchise, benefit or advantage as it considers appropriate based on the facts disclosed to it. (Prior code 11.04.050)

ARTICLE 7

Alcoholic Beverages

Sec. 10-7-10. Open container.

(a) No person shall knowingly consume any intoxicating beverage, nor shall any person knowingly carry or have in his or her possession an open container of any intoxicating beverage in either of the following places:

(1) In a moving, standing or parked motor vehicle which is in any public place; or

(2) In any public place which has not been explicitly exempted from the applicability of this Section by resolution of the Town Council. If the exemption is requested by a person who is sponsoring an artistic, cultural, recreational or other event or festival which has been officially sanctioned or scheduled by the Town's Commission for Community Assistance, Arts and Special Events, or which has received a grant or funding from the Town, then the exemption may be granted by written order of the Mayor. Any such resolution or order shall identify the organization and the special event for which the exemption is requested, the boundary of the public place to be exempted and the duration of the exemption. To protect the public health, safety and welfare, the Town Council or the Mayor may impose conditions of exemption, including but not limited to perimeter security, clean-up bond, general liability and/or liquor liability insurance, and an endorsement thereof identifying the Town and its officers, agents and employees as additional insureds.

(b) The provisions of this Section shall not apply to a person in possession of one (1) opened but resealed container of partially consumed vinous liquor which was lawfully removed pursuant to Section 12-47-411(3.5), C.R.S., and any agency regulations promulgated concerning the means of transportation of a partially consumed bottle of vinous liquor once it is resealed and removed from the licensed premises of an establishment holding a motel and restaurant liquor license.

(c) The provisions of this Section shall not apply to a person, of lawful drinking age, consuming or possessing an alcoholic beverage within the boundaries of the Telluride Town Park if the person is:

(1) A guest registered at any campsite located within the Telluride Town Park Campground; or

(2) A participant or spectator at scheduled adult recreational programs (not youth recreational programs); or

(3) Attending a private function scheduled with the permission of the Town of Telluride; or

(4) Attending a special event which is scheduled with the permission of the Town of Telluride and has obtained a Special Event Permit through the State of Colorado, pursuant to C.R.S. Section 12-48-101-108.

For purposes of this Section "scheduled" means an event that is either a Town operated program or occurs pursuant to a town approved reservation. No alcohol shall be allowed before 10 a.m. or after 10 p.m. regardless of the exemption contemplated in this Section except that no durational limits are applicable for guests registered at any Town Park Campsite.

For purposes of this Section and the exemption to the Open Container Law within Town Park, The Telluride Town Park shall be defined as all of that portion of the Telluride Town Park south from the south bank of the San Miguel River, excluding, however, the Town Park Skatepark, the fenced area of the Town Park Pool and within any structure in Town Park other than the Town Park Pavilion.

This exemption is only applicable to the above-referenced Open Container Law, and it shall not be a defense to any other independent violation of the Telluride Municipal Code, an Order of a Court with Competent Jurisdiction or any other provision of Colorado or Federal Law, the violation of which might result from the consumption of alcoholic beverages.

This exemption to the Open Container Law within Town Park, associated with any of the above permitted or organized uses as provided for above, may be revocable by the Town of Telluride at any time for violation of the restrictions as delineated in this Section or for conduct which is determined to be abusive or detrimental to the peaceful enjoyment of the Town Park by other users. (Prior code 9.16.040; Ord. 1288 §1, 2008; Ord. 1312, 2009; Ord. 1379, 2012)

ARTICLE 8

Weapons

Sec. 10-8-10. Definitions.

As used in this Article, unless the context otherwise requires, the following definitions shall apply:

Ballistic knife means a knife which is spring-loaded, allowing it to eject blades and/or projectiles.

Blackjack means any billy, sand club, sandbag or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact, or any device consisting of two (2) or more separate portions linked together by a chain, strap or other fastener, which design is for the purpose of increasing the striking force or impact of the device.

Bomb means any explosive or incendiary device or Molotov cocktail as defined in Section 9-7-103, C.R.S., which is not specifically designed for lawful and legitimate use in the hands of its possessor.

Conceal means to hide a weapon on or near one's person with the intent to avoid the lawful viewing and detection of its presence. It is prima facie evidence of the necessary intent that the weapon is hidden in such a manner as to make it immediately available for use in the fashion in which the weapon is designed to be used.

Deadly weapon means any firearm, whether loaded or unloaded, knife, sheath knife, hatchet, bludgeon, bomb or other weapon, device, instrument, material or substance, whether animate or inanimate, which, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury.

Firearm means any pistol, revolver, rifle, shotgun or any other device designed to shoot, throw or hurl a projectile by means of gunpowder or other explosive.

Firearm silencer means any instrument, attachment, weapon or appliance for causing the sound of firing any firearm to be muffled, diminished or silenced.

Gas gun means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device, and includes the projectiles designed for use in such a device.

Gravity knife means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force, that, when released, is locked in place by means of a button, spring, plate, lever or other such device.

Illegal weapon means any blackjack, gas gun, metallic knuckles, gravity knife or switchblade knife, ballistic knife or sheath knife in excess of three and one-half (3½) inches in length.

Knife means any dagger, straight razor, dirk, sheath knife, knife or stiletto with a blade over three and one-half (3½) inches in length, or any other dangerous instrument capable of inflicting, cutting, stabbing or tearing wounds.

Machine gun means any firearm that is capable of shooting more that one (1) shot, without manual reloading, by a single function of the trigger.

Short rifle means a rifle having a barrel less than sixteen (16) inches long, or an overall length of less than twenty-six (26) inches.

Short shotgun means a shotgun having a barrel or barrels less than eighteen (18) inches long or an overall length of less than twenty-six (26) inches.

Switchblade knife means any knife, the blade of which opens automatically by hand pressure applied to a button, spring or other such device in its handle.

Weapon, felonious to possess means any firearm, silencer, machine gun, short shotgun, short rifle, explosive or incendiary device. (Prior code 9.20.010; Ord. 1288 §1, 2008)

Sec. 10-8-20. Unlawful use of weapons.

(a) Except as provided in Subsection (b) below, a person commits unlawful use of weapons if such person knowingly and unlawfully:

(1) Carries on his or her person any concealed deadly weapon.

(2) Carries on his or her person, or possesses, any firearm, whether concealed or not, or displays any firearm.

(3) Displays, brandishes or flourishes any deadly weapon in a manner calculated to alarm another person, or intentionally aims any firearm at another person.

(4) Discharges or causes to be discharged any firearm, air gun, gas gun, spring gun, any instrument, toy or weapon commonly known as a pea shooter, slingshot or beany, or a bow or missile projector of any kind, whether such instrument is called by a name set forth in this Article or by any other name.

(5) Possesses any deadly weapon while either:

a. Under the influence of intoxicating beverages; or

b. On the premises where intoxicating beverages area sold for consumption on the premises.

(b) Carrying a deadly weapon shall not be an offense if such person is:

(1) In or on his or her own dwelling, place of business or property, or property under his or her control.

(2) In a private motor vehicle or other private means of conveyance and is carrying the weapon in plain view for lawful protection of his, her or another's person or property while traveling.

(3) Directly proceeding to or returning from target practice or hunting and is carrying the weapon in plain view.

(4) In possession of a valid written permit to carry a concealed weapon, which permit was duly issued pursuant to state or federal law. (Prior code 9.20.030; Ord. 1288 §1, 2008)

Sec. 10-8-30. Immunity for peace officers.

No conduct is an offense under this Article if it was committed by a peace officer or by a member of the United States Armed Forces, in the lawful discharge of his or her duty, so long as such person is not under the influence of any narcotic or dangerous drug or any intoxicating beverage. (Prior code 9.20.020)

Sec. 10-8-40. Possessing an illegal weapon.

(a) A person commits the offense of possessing an illegal weapon when he or she knowingly possess an illegal weapon, unless the person has a valid written permit to possess such a weapon, which permit was duly issued pursuant to state or federal law.

(b) It is the duty of every peace officer, upon making an arrest under this Section, to seize the allegedly illegal weapon and to place such weapon in safekeeping as directed by the Town Marshal, to be disposed of pursuant to an order of the court having jurisdiction over the matter. Should the person arrested be convicted of a violation of this Section, the court shall order that the illegal weapon be forfeited and destroyed. (Prior code 9.20.040; Ord. 1288 §1, 2008)

ARTICLE 9

Hang Gliding Regulations

Sec. 10-9-10. Definitions.

For the purposes of this Article, unless otherwise apparent from the context, certain words and phrases used in this Article are defined as follows:

Hang III pilot means a pilot who has met all requirements and passed required tests as set by USHGA standards for an intermediate level and has logged a minimum of twenty-five (25) hours of mountain flying.

Hang IV pilot means a pilot who has met all requirements as set by USHGA to meet the standards for an advanced level Hang IV pilot.

Hang glider means aircraft used in the recreational sport of hang gliding.

Hang glider pilot means a person who operates a hang glider.

Telluride Air Force means a nonprofit corporation organized under the laws of the State for the purpose of promoting and regulating the sport of hang gliding in the Town. The business consists of organizing and operating the hang gliding festival and regulating the flying site.

United States Hang Gliding Association (USHGA) means the national association of

hang glider pilots responsible for the development, promotion and protection of hang gliding activities in the United States. (Prior code 9.24.010; Ord. 1288 §1, 2008)

Sec. 10-9-20. Regulations.

(a) Only a hang glider pilot with a USHGA rating of Hang IV or a hang glider pilot who has a Hang III rating with an advanced sign-off by an observer approved by the Telluride Air Force shall be permitted to land on Town property.

(b) Only hang glider pilots with the rating specified in this Article and current members of the USHGA, which includes full liability insurance coverage, shall be allowed to land on Town property.

(c) Hang glider pilots allowed to land upon Town property as designated by this Article shall execute a general release to the Town.

(d) The designated area within the Town Park for the landing of hang gliders shall be established by the Town. A description of said area is available at the Town Clerk's office. Hang glider pilots of any class shall be prohibited from landing upon any other Town property.

(e) Hang glider pilots shall use properly maintained modern hang gliders and equipment, specifically including a parachute. (Prior code 9.24.020; Ord. 1288 §1, 2008)

Sec. 10-9-30. Penalties.

Any person, upon conviction of a violation for any provision of this Article, shall be subject to a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code for each separate offense, and may be enjoined from any further continued violation thereof. (Prior code 9.24.030)

ARTICLE 10

Panhandling

Sec. 10-10-10. Purpose.

Town of Telluride, Colorado (Town), a Colorado Home Rule Municipality, has the authority and power to regulate, restrain and punish disorderly persons, to regulate, restrain and punish the use of sidewalks, streets, parks and other public places, to prevent and suppress disorderly conduct and disturbances, to otherwise protect the safety and convenience of its residents and visitors and to maintain order in public places, all of which are valid and reasonable governmental objectives and interests.

The Town makes no distinction nor expresses a basis of opinion as to any message or content conveyed or delivered with solicitation or panhandling, but rather is attempting by the provisions of this Article to regulate, restrain and punish behavior based upon the time, place and manner of the conduct of the speaker and not upon the content of the message they carry. Specifically, the Town by passage of this Article intends to regulate, restrain and punish panhandling activities that are done in an aggressive, threatening, intimidating, coercive or obscene manner by means of regulating panhandling through reasonable time, place and manner restrictions, which will serve to protect property, public safety and will otherwise benefit the general health, safety and welfare of residents and visitors to Telluride.

The Town by passage of this Article intends to leave sufficient alternative means and methods of communication available to all residents and visitors to Telluride, provided such conduct is consistent and not in violation of the limited panhandling prohibitions imposed by this Article. To this end, the Town does not intend, by passage of this Ordinance, to interfere with the exercise of constitutionally protected rights of freedom of expression, conduct, speech or association, and the Town Council recognizes the constitutional rights of every person to express beliefs and opinions on any subject and to lawfully associate with other individuals. The Town is not intending to limit any person from exercising their constitutional rights to solicit funds, picket, protest or engage in other constitutionally protected activity; rather, it is the goal of this Article to protect residents and visitors to Telluride from fear and intimidation accompanying certain kinds of aggressive solicitation that have become an unwelcome presence within the Town of Telluride.

Furthermore, the Town wishes to protect certain captive audiences by enactment of this Article, which individuals are less capable of resisting or avoiding unwanted panhandling activities and/or have fewer means available at their disposal to avoid or resist unwanted panhandling. The Town also finds and declares that it is the right of every person to be secure and protected from intimidation and physical harm resulting from activities associated with certain panhandling activities prohibited by this Article.

Residents and visitors of the Town of Telluride have expressed concern as a result of an increase in disturbing behavior by individuals and by groups of individuals who have engaged in certain panhandling activities in an aggressive, threatening, intimidating, coercive or obscene manner, who accost captive audiences and who create safety risks and concerns for residents and visitors, which behavior has contributed to a loss of access to and enjoyment of a variety of public places and also which has enhanced a sense of fear, intimidation and disorder in Telluride and which panhandling activities, and the manner in which they are engaged in, are not constitutionally protected forms of expression, conduct, speech or association. (Ord. 1424, 2015)

Sec. 10-10-20. Definitions.

The following definitions shall apply throughout this Article:

(a) *Coercive* shall mean to compel another person by physical force to do what his or her free will would refuse.

(b) *Intimidating* shall mean conduct that puts the fear of bodily harm in another person.

(c) *Obscene* shall mean a blatantly offensive description of a sexual act or solicitation to commit a sexual act, whether or not such sexual act is normal or perverted, actual or simulated, including but not limited to masturbation, cunnilingus, fellatio, anilingus or human excretory functions.

(d) *Panhandle* or *Panhandling* shall include using the spoken, singing, written, or printed word, or any bodily gestures, signs or other means of communicating with the purpose of obtaining a gift of money or any other thing of value.

(e) *Public Place* shall mean a place where a governmental entity has title or right of access, to which the public also has access, including but not limited to any Sidewalk, street, alley, bridges, buildings, driveways, highway, public parking lot or public parking garages, plaza, transportation facility, school, place of amusement, park, playground or restrooms.

(f) *Sidewalk* shall mean that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians, as defined in Section 1-2-10 of the Telluride Municipal Code.

(g) *Threatening* shall mean conduct that expresses an avowed present determination or intent to inflict physical or other harm or injury to another person presently or in the future. (Ord. 1424, 2015)

Sec. 10-10-30. Prohibited Panhandling Activities.

It shall be unlawful for any person to Panhandle if such Panhandling involves the following prohibited conduct:

(a) If the person Panhandling engages in conduct toward the person solicited that is aggressive, intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety.

(b) If the person Panhandling directs fighting words to the person solicited that are likely to create an imminent breach of the peace.

(c) If the person Panhandling touches or grabs any person being solicited.

(d) If the person Panhandles in such a manner to intentionally obstruct or block a Sidewalk, as defined in Section 1-2-10 of the Telluride Municipal Code, doorway, entryway or other passage way in a Public Place used by pedestrians or obstructs the passage of a person solicited or requires the person solicited to take evasive action to avoid physical contact with the person Panhandling or with any other person. (Ord. 1424, 2015)

Sec. 10-10-40. Penalties.

Any person who violates any provision of this Article shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000.00) or imprisonment of not more than ninety (90) days, or both such fine and imprisonment. (Ord. 1424, 2015)

CHAPTER 11

Streets, Sidewalks and Public Places

Article 1 Sidewalk Construction and Maintenance

Sec. 11-1-10 Petition to Town Council; Town Council initiation
Sec. 11-1-20 Contents of notice
Sec. 11-1-30 Service of notice
Sec. 11-1-40 Town action upon default
Sec. 11-1-50 Assessment
Sec. 11-1-60 Width of sidewalks
Sec. 11-1-70 Reserved
Sec. 11-1-80 Reserved
Sec. 11-1-90 Snow and ice removal
Sec. 11-1-100 Violation
Sec. 11-1-110 Public nuisance

Article 2 Public Utilities Construction

Sec. 11-2-10 Building code compliance
Sec. 11-2-20 Restoration
Sec. 11-2-30 Notice to Town

Article 3 Newsracks

Sec. 11-3-10 Compliance required
Sec. 11-3-20 Definition
Sec. 11-3-30 Newsracks allowed in designated locations
Sec. 11-3-40 Number and grouping of newsracks
Sec. 11-3-50 Rights limited
Sec. 11-3-60 Newsracks to be stabilized
Sec. 11-3-70 Design standards
Sec. 11-3-80 Nonemergency removal
Sec. 11-3-90 Emergency removal
Sec. 11-3-100 Unauthorized newsracks
Sec. 11-3-110 Hold harmless
Sec. 11-3-120 Insurance requirements

Article 4 Festival Events

Sec. 11-4-10 Definitions
Sec. 11-4-20 Advance notice of impacts
Sec. 11-4-30 Crowd size limit for major festival events in Town Park
Sec. 11-4-40 Admissions fee
Sec. 11-4-50 Indemnification and insurance
Sec. 11-4-60 Permit required
Sec. 11-4-70 Exemption procedure
Sec. 11-4-80 Violations; fine

ARTICLE 1

Sidewalk Construction and Maintenance

Sec. 11-1-10. Petition to Town Council; Town Council initiation.

When the owners of the majority of the lots fronting upon either side of any street, or any specified portion of a street, petition the Town Council for the construction or repair of a sidewalk along the street or any portion thereof, or whenever the Town Council deems it necessary, the Town Council may at any regular or special meeting, by an order or resolution to be passed by a majority of the members of the Town Council, order such construction or repair. (Prior code 12.04.010)

Sec. 11-1-20. Contents of notice.

The order for the construction or repair of any sidewalk shall specify the kind and dimensions of materials to be used, shall describe the lot in front of which the sidewalk is to be constructed or repaired, and shall direct the owner of each such lot so described to make the improvement; in case of new construction, within twenty (20) days; and in case of repair, within five (5) days, from the service of a written copy of such order. (Prior code 12.04.020)

Sec. 11-1-30. Service of notice.

A copy of such order shall be served upon the owner of the lot affected, or upon the agent of such owner, either by the Director of Public Works or the Town Marshal; or, in case such service cannot be conveniently made, the order shall be published for one (1) week in a newspaper of general circulation published in the Town, which publication, after the expiration of one (1) week, constitutes due service upon the owner of the lot. (Prior code 12.04.030; Ord. 1288 §1, 2008)

Sec. 11-1-40. Town action upon default.

If the owner of any lot described in the order neglects or refuses to make the improvements so ordered within twenty (20) days in case of construction or renewal of the sidewalk, or within five (5) days in case of repair of the sidewalk, from the date of service of notice, the Director of Public Works shall cause the sidewalk to be constructed or repaired, as the case may be, and shall make out an itemized statement or bill of the cost of such construction or repair and present it to the owner or agent of the lot or, in case such owner or agent cannot be found or such statement or bill conveniently presented to him or her, then such statement shall be published for one (1) issue in a newspaper of general circulation published in the Town, which publication is a full and sufficient presentation of such bill or statement. If the bill remains unpaid for twenty (20) days from the date of presentation or date of publication, it shall be presented to the Town Clerk, whose duty it is to bring the matter before the Town Council at the next regular meeting of the Town Council, which may order the bill paid from the Town funds by warrant or warrants thereon. (Prior code 12.04.040; Ord. 1288 §1, 2008)

Sec. 11-1-50. Assessment.

In case the Town has paid for the construction, renewal or repair of the sidewalk as provided in this Article, then the Town Council shall, at a regular meeting, assess the cost of such construction, renewal or repair to the lot, together with ten percent (10%) penalty thereon to defray the cost of collection. It is the duty of the Town Clerk to certify the assessment to the County Clerk and Recorder, or to the official having custody of the tax list at the time such certification is made, to be placed by him or her upon the tax list for the current year and collected in the manner provided by law; provided however, that no such assessment shall be so certified until notice of such assessment has been published in a newspaper of general circulation published in Town, for a period of

not less than one (1) week, giving notice to the owner or agent of the lot to appear before the Town Council at a specified meeting, not less than ten (10) days after such publication, where he or she may be heard as to the justness and correctness of the assessment. (Prior code 12.04.050; Ord. 1288 §1, 2008)

Sec. 11-1-60. Width of sidewalks.

All sidewalks constructed and reconstructed in the right of way shall meet the specifications and standards in the Right of Way Specifications (adopted November 2011) and Manual of Streetscape Standards (adopted April 2007). (Prior code 12.04.060; Ord. 1362, 2011)

Sec. 11-1-70. Reserved.

Sec. 11-1-80. Reserved.

Sec. 11-1-90. Snow and ice removal.

(a) Every owner, occupant or agent ("responsible person") of a building, structure, property or lot ("premises") within the Town shall remove from all sidewalks abutting, adjoining or fronting the premises all snow and ice within twelve (12) hours after it accumulates thereon. No person shall fail to fulfill this affirmative obligation. For purposes of determining whether a sidewalk is abutting, adjoining or fronting the premises, any intervening right-of-way shall be excluded. This Section does not apply to ice that accumulates for reasons beyond the control of the responsible person.

(b) In the event the responsible person shall fail to cause snow and ice removal as required by Subsection (a) above, the Town Manager may cause a written notice to be served on the responsible person. The notice shall require the responsible person to complete the snow and/or ice removal within a reasonable time, not to exceed forty-eight (48) hours. If personal service cannot be made on the responsible person, the notice shall be posted in a prominent place at the premises. If the responsible person so notified fails to remove the snow as required by this Section, the Town Manager may cause the snow removal to meet the requirements of Subsection (a) above and charge the costs thereof, plus an additional amount up to twenty-five dollars ($25.00) for administrative costs, to the responsible person.

(c) Any person who violates any provision of this Section shall be subject to a fine not less than one hundred dollars ($100.00) and not to exceed the maximum fine as set forth in Paragraph 1-4-10(a)(2) of this Code. Each such person shall be guilty of a separate violation for each and every day during any portion of which any violation of any provision of this Section is committed, continued or permitted by any such person, and such person shall be punished accordingly.

(d) The remedies contained in Subsections (b) and (c) above are cumulative. (Prior code 12.04.090; Ord. 1288 §1, 2008)

Sec. 11-1-100. Violation.

If any person violates any of the provisions of this Article in the laying or repair of any sidewalk, or interferes with or obstructs any employee of the Town or any contractor under contract with the Town engaged in the laying or repair of any such sidewalk, he or she is guilty of a misdemeanor and, upon conviction, shall be subject to the maximum penalty provided for in Paragraph 1-4-10(a)(1) of this Code. (Prior code 12.04.100)

Sec. 11-1-110. Public nuisance.

Any defective or dangerous sidewalk which, by reason of inequalities, holes therein, planks removed therefrom, projecting or protruding nails, or nonconformity to the established grade, or which for any other reason is, or is liable to become, dangerous and an impediment to travel, is a nuisance, and the abutting landowner is the author of the nuisance; and, after failure to abate the nuisance upon twenty-four (24) hours' notice by the Town Marshal, Director of Public Works or any police officer and upon conviction, shall be subject to the maximum penalty as provided for in Paragraph 1-4-10(a)(1) of this Code. (Prior code 12.04.110; Ord. 1288 §1, 2008)

ARTICLE 2

Public Utilities Construction

Sec. 11-2-10. Building code compliance.

All privately owned public utilities engaged in business within the Town shall comply with all provisions of Chapter 15, Article 1 of this Code. (Prior code 12.08.010)

Sec. 11-2-20. Restoration.

All telephone and electrical utilities engaged in the business of furnishing local exchange telephone service or electrical power within the Town shall reconstruct, replace or restore any street, alley or public way or place, and any water, sewer or other facility of the Town disturbed by such telephone utility or electrical utility, without cost to the Town. (Prior code 12.08.020)

Sec. 11-2-30. Notice to Town.

All privately owned public utilities engaged in business within the Town shall give notice in writing prior to placing any poles, mains, cables, structures, pipes, conduits or wires on, over, under or within the Town's open space or park zone. Approval by the Town Council is required prior to the placement of any poles, mains, cables, structures, pipes, conduits or wires on, over, under or within the Town's open space zone or parks. (Prior code 12.08.030)

ARTICLE 3

Newsracks

Sec. 11-3-10. Compliance required.

It is unlawful to place a newsrack on Town-owned or publicly owned property without complying with the terms and provisions of this Article. (Prior code 12.06.010; Ord. 1288 §1, 2008)

Sec. 11-3-20. Definition.

For the purposes of this Article, *newsrack* means any outdoor self-service or coin-operated container, rack or structure used for the distribution of newspapers, news periodicals or other printed material. (Prior code 12.06.020)

Sec. 11-3-30. Newsracks allowed in designated locations.

(a) Newsracks on Town-owned or publicly owned property shall be lawful only at the following designated locations:

(1) South Oak Street and San Juan Avenue – the southeast corner abutting The Camel's Garden Building;

(2) Spruce Street Park – the private property line on the west side of the Spruce Street Park sidewalk at its intersection with the south side of the Colorado Avenue sidewalk;

(3) Pine Street and Colorado Avenue – the northwest corner abutting the Black Bear Condominium Building;

(4) Oak Street Park – the north side of Colorado Avenue;

(5) Davis Street and Pacific Avenue – the northwest corner of the intersection; and

(6) Colorado Avenue and Willow Street – the south side of Colorado Avenue in front of the United States Post Office Annex. This designated location shall terminate upon the discontinuance of the annex building and construction of a new United States Post Office, in which event the designated location shall be at the corner of Willow and Pacific adjacent to the new post office building.

(b) Notwithstanding the foregoing location designations, no newsrack shall be allowed in any location which the Town Manager determines, now or in the future, unsafely:

(1) Impedes or interferes with the reasonable use of a crosswalk, display window or building entrance;

(2) Impedes or interferes with the reasonable use of any bench, trash receptacle, bicycle rack, driveway, alley or bus stop;

(3) Interferes with the reasonable use of any fire hydrant, traffic control device or other emergency facility;

(4) Impairs or interferes with pedestrian traffic;

(5) Interferes with or impairs the vision of operators of vehicles at street intersections; or

(6) Reduces the clear, unimpeded sidewalk width to:

a. Ten (10) feet on sidewalks over twelve (12) feet in width; or

b. Less than four (4) feet on sidewalks under twelve (12) feet in width.

(c) So long as the provisions of this Article are complied with, the publisher or distributor may move its newsracks from one (1) designated location to another designated location.

(d) The Town Manager may establish, if deemed necessary, a nontransferable permitting process to ensure compliance with the provisions

of this Article. (Prior code 12.06.030; Ord. 1288 §1, 2008)

Sec. 11-3-40. Number and grouping of newsracks.

(a) At the designated locations, the maximum number of newsracks shall be:

(1) Six (6) at South Oak Street and San Juan Avenue – the southeast corner abutting The Camel's Garden Building;

(2) Six (6) at Spruce Street Park – the private property line on the west side of the Spruce Street Park sidewalk at its intersection with the south side of the Colorado Avenue sidewalk;

(3) Ten (10) at Pine Street and Colorado Avenue – the northwest corner abutting the Black Bear Condominium Building;

(4) Ten (10) at Oak Street Park – the north side of Colorado Avenue;

(5) Six (6) at Davis Street and Pacific Avenue – the northwest corner of intersection.

(6) Six (6) at Colorado Avenue and Willow Street – the south side of Colorado Avenue in front of the United States Post Office Annex. This designated location shall terminate upon the discontinuance of the annex building and construction of a new United States Post Office, in which event the designated location shall be at the corner of Willow and Pacific adjacent to the new post office building.

(b) Each newsrack within a group shall be separated by no more than six (6) inches from the nearest other newsrack within the group.

(c) No more than one (1) newsrack at any location may dispense the same publication.

(d) In the event that demand exceeds the foregoing maximum numbers at any or all of the locations, the Town Manager may require that all newsracks be removed and replaced by modular newsracks, designed and constructed by the Town, for lease to users at rates and according to procedures implemented by the Town Manager. (Prior code 12.06.040; Ord. 1288 §1, 2008)

Sec. 11-3-50. Rights limited.

The approval of any location for use as a newsrack shall not be construed as granting the user any right or interest to or in the property owned by the Town. The rights granted by this Article are merely a license to use the property for the purposes allowed, subject to the provisions of this Article. (Prior code 12.06.050)

Sec. 11-3-60. Newsracks to be stabilized.

Newsracks shall be stabilized at their respective sites. Newsracks may be required to be anchored to the ground or sidewalk, at the sole discretion of the Town Manager. If so anchored, the publisher or distributor shall be responsible for any damage or repairs caused or necessitated by the removal, installation or reinstallation of any newsrack. Prior to installation, the Town must be notified to ensure that the newsrack is being anchored in accordance with the Town's direction. (Prior code 12.06.060)

Sec. 11-3-70. Design standards.

All permitted newsracks shall comply with the following design standards.

(1) Height. As measured from the surface of the sidewalk to the highest point of newsrack, no newsrack shall exceed:

a. A height of five (5) feet when located adjacent to a building stacked with modular racks; or

b. Four (4) feet in other locations.

(2) Other dimensions. No newsrack shall exceed:

a. A depth of two (2) feet; and

b. A width of two (2) feet.

(3) Newsracks shall carry no advertising except a logo or other information identifying the publication as it appears on the masthead. This information may be displayed one (1) time only on the front side of the newsrack. Coin boxes may display essential information concerning costs and operation.

(4) It shall be the responsibility of the publisher or distributor to maintain the newsracks, which must be in working order and in good repair at all times. (Prior code 12.06.070; Ord. 1288 §1, 2008)

Sec. 11-3-80. Nonemergency removal.

(a) Notice. If at any time it is determined by the Town that a newsrack is not in compliance with the requirements of this Article, a Notice of Intent to Remove shall be issued in writing to the publisher or distributor at the address shown in the publication. Service shall be by certified mail, return receipt requested, and shall be deemed accomplished three (3) mailing days after the date the notice is deposited in the United States Mail. Such notice will state the violation that constitutes the basis of the proposed removal and the date, time and place for the hearing to be held before removal.

(b) Hearing. The hearing shall be not less than ten (10) days after the date of service of notice. Prior to the hearing, the publisher or distributor or his or her designee may file a written response to the notice specifically setting forth the reasons the newsrack should not be removed. At the hearing, the Town Manager shall determine whether the newsrack complies with the provisions of this Article. In the event the Town Manager determines that the newsrack is not in compliance with this Article, the newsrack shall be removed or otherwise brought into compliance by the owner within ten (10) days after service of the Town Manager's order. If the newsrack is not removed as required, the Town may remove and dispose of the newsrack. The decision or order of the Town Manager shall be served by certified mailed, return receipt requested, and shall be deemed accomplished on the third day following deposit of the notice in the United States Mail.

(c) Appeal. The publisher or distributor may appeal any decision or order of the Town Manager to the Town Council. Any appeal shall be filed in writing within ten (10) days after the decision of the Town Manager and shall specify the basis for the appeal. The Town Council shall consider the appeal based on the written submissions only. (Prior code 12.06.080; Ord. 1288 §1, 2008)

Sec. 11-3-90. Emergency removal.

(a) Removal. In the event that it is determined by the Town that the location or operation of the newsrack constitutes an immediate physical threat to public safety or health, the newsrack may be removed by the Town immediately without any prior notice or hearing. The enforcement of this provision shall not be in any way related to the content or expression of the material distributed by the newsrack.

(b) Notice and hearing. In the event of such an emergency removal, the Town shall immediately contact the publisher or distributor and inform him or her of the removal and the reasons therefor. If requested by the publisher or distributor, the Town shall hold an immediate hearing before the Town Manager to determine whether or not the removed newsrack constituted an immediate threat to the public's life, safety and health. In the event that the Town Manager determines that the newsrack did not constitute such an immediate threat, the Town shall immediately, at its own expense, replace the newsrack to an authorized location.

(c) Appeal. The publisher or distributor may appeal any decision or order to the Town Council.

Any appeal shall be filed in writing within ten (10) days after the decision of the Town Manager and shall specify the basis for the appeal. The Town Council shall consider the appeal based on the written submissions only. (Prior code 12.06.090; Ord. 1288 §1, 2008)

Sec. 11-3-100. Unauthorized newsracks.

Any newsracks on Town-owned or publicly owned property in violation of any provisions of this Article shall be impounded by the Town without notice or hearing. The Town shall take reasonable efforts to determine the owner of the newsrack and shall notify the owner of the impoundment. The owner of any impounded newsrack shall be responsible for the expense of removal and storage of such newsrack. If the owner fails to reclaim the impounded newsrack and pay the expenses of removal and storage within thirty (30) days after notice of impoundment, the newsrack may be deemed unclaimed property and may be disposed of in the same manner as other unclaimed property. (Prior code 12.06.110)

Sec. 11-3-110. Hold harmless.

Anyone owning, placing, using or leasing a newsrack on Town-owned or publicly owned property shall indemnify, defend and hold the Town and its officers and employees harmless for any loss or damage, including attorney's fees, arising out of the use, placement, maintenance or leasing of such newsracks. (Prior code 12.06.120)

Sec. 11-3-120. Insurance requirements.

Anyone owning, placing, leasing or using a newsrack on Town-owned or publicly owned property shall maintain liability insurance with a company insuring against all liability that the owner, lessor or user of the newsrack may incur by virtue of the placement, care, use, operation and existence of the newsrack. Such insurance shall have limits as required by the Colorado Governmental Immunity Act to protect the Town from any and all liability associated therewith. The insurance shall name the Town as an additional insured and shall not be cancelable without thirty (30) days' prior written notice to the Town. In lieu of such insurance, a publisher or distributor may obtain a waiver of such insurance from the Town Manager upon a showing, acceptable to the Town Attorney, that such person has sufficient unencumbered assets available for attachment and execution to satisfy any judgment that would be rendered against it, up to and including three hundred thousand dollars ($300,000.00). The publisher or distributor shall provide evidence of insurance or evidence of sufficient assets, as the case may be, to the Finance Director each year. (Prior code 12.06.130)

ARTICLE 4

Festival Events

Sec. 11-4-10. Definitions.

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

Community impacts means negative effects upon facilities, systems and/or properties in the Town and the Telluride Region, including but not limited to the following: parking, sanitation, camping, transportation, cleanup of the Town and Town Park, medical services, police services and any other impacts identified by the Town Manager.

Major festival event means an artistic, cultural, entertainment or amusement event or performance, in the Town, presented in a concert or other organized format, which may reasonably be expected to draw or which draws three thousand (3,000) or more persons in attendance on any one (1) day.

Minor festival event means any entertainment or amusement event, performance or gathering, presented in an organized format, which may reasonably be expected to draw or which draws up to two thousand nine hundred ninety-nine (2,999) persons in attendance on any one (1) day. (Prior code 12.12.010; Ord. 1288 §1, 2008)

Sec. 11-4-20. Advance notice of impacts.

The organizers of any major festival event shall notify the Town Manager in a timely manner but not later than the prior year's initiation of the Commission for Community Assistance, Arts and Special Events calendar date application process. The notice shall fully describe all anticipated community impacts, and shall propose impact control and mitigation measures responsive to Section 11-4-60 below. The event must be granted scheduling approval from C.C.A.A.S.E prior to being granted a permit under Section 11-4-60. (Prior code 12.12.020; Ord. 1288 §1, 2008)

Sec. 11-4-30. Crowd size limit for major festival events in Town Park.

The maximum number of persons admitted to a major festival event in the Town Park shall not exceed eleven thousand five hundred (11,500) persons on any one (1) day of the festival. Of this total, persons paying for admission shall not exceed ten thousand (10,000) persons on any one (1) day of the festival. Of this eleven thousand five hundred (11,500) total, up to fifteen percent (15%) complimentary or free admissions for staff, performers, guests and concessionaires shall be allowed on any one (1) day of the festival. An approved major festival in Town Park may be permitted up to twelve thousand (12,000) persons on any one (1) day of the festival if there is a local ticket option with a minimum number of local tickets as set and determined by subsequent Town Council action by resolution. All children up to the age of eleven (11) years old shall be issued a ticket or wristband but shall not be counted as part of the crowd size. (Prior code 12.12.030; Ord. 1370, 2012)

Sec. 11-4-40. Admissions fee.

As a condition of application for and use of the Town Park for a major or minor festival event, the festival organizer shall comply with the provisions of Chapter 6, Article 3 of this Code concerning imposition and collection of an admissions fee. (Prior code 12.12.040)

Sec. 11-4-50. Indemnification and insurance.

(a) The organizers of every major and minor festival event shall agree to indemnify the Town and its officers, agents and employees and to hold them harmless as to any claim, liability or damages, including attorney fees and court costs, arising out of or directly or indirectly resulting from the conduct of the major or minor festival event.

(b) The organizers of every major or minor festival event shall provide at their expense general liability insurance coverage in an amount and form acceptable to the Town Manager, insuring the Town and its officers, agents and employees against any and all liability and damages which may arise out of or directly or indirectly result from the conduct of the major or minor festival event. The minimum limits of the coverage shall be a one-million-dollar combined single limit, which limit may be increased or decreased by the Town Manager. In addition, when applicable, a liquor liability insurance policy or coverage shall be required from the organizers, providing coverage and limits equivalent to that set forth above for general liability insurance.

(c) Evidence of such coverages and, upon request, a copy of the coverage policy, shall be provided to the Town Manager at least thirty (30) days prior to commencement of the event. The insurance policy shall be noncancelable without thirty (30) days' prior notice to the Town. The insurance policy shall provide that it is primary insurance and that its coverage will apply prior to utilization of the Town's general liability coverage. (Prior code 12.12.050)

Sec. 11-4-60. Permit required.

(a) No major or minor festival event shall be held in the Town unless a major or minor festival event permit is first obtained by the organizers. The permit application shall be of such form as may be prescribed by the Town Manager. The permit may be incorporated into an agreement with the event organizers. The Town Manager may issue such a permit only after agreement by the organizers to mitigate community impacts from the event.

(b) Mitigation and control of community impacts may include, in the discretion of the Town Manager, requirements for:

(1) Payment for rental of the Town Park campground and related facilities, as determined by the Town Manager.

(2) Payment of law enforcement costs incurred by the Town and the County not otherwise paid for by the admissions fee receipts.

(3) Provision of additional security working under the Town Marshal's direction and control.

(4) Provision of appropriate medical and ambulance facilities.

(5) Provision for trash removal and cleanup of the Town and Town Park.

(6) A plan for providing proof of adequate camping and parking facilities and a plan for securing areas that are not authorized for camping or parking.

(7) A plan for providing adequate sanitation facilities in the Town and in Town Park and a plan for providing facilities to areas that are not within the festival area, but which may be in an area which may suffer impacts. This shall include a plan for complying with all County Sanitation and Health Department requirements for the disposal of waste and for the handling of food.

(8) Submittal of a plan to limit ticket sales to ten thousand (10,000) persons per day in the case of a major festival event, or under two thousand nine hundred ninety-nine (2,999) persons per day for a minor festival event.

(9) Provisions for festival staff in the Town and in areas of high impact to provide information and direction and to help enforce the applicable portions of this Code (i.e., camping, vending, parking, loitering, etc.) under the Town Marshal's direction and supervision.

(10) A plan for providing that all public facilities, including landscaping, ball fields, rest rooms, campgrounds and buildings, will be protected from damage during the festival period.

(c) A festival event permit shall be conditioned upon continuing compliance with all applicable requirements of Chapter 6, Article 3 of this Code, this Article and other applicable requirements of this Code, including business license taxes, liquor licensing and vendor license taxes. The permit shall not be assignable. A bond sufficient to ensure compliance with all permit requirements shall be required for all major festival events in an amount that equals or exceeds the projected totals for admissions fee, damages, repairs, cleanup and rental fees. A bond sufficient to ensure compliance with all permit requirements may be required for all minor festival events at the discretion of the Town Manager.

(d) Noncompliance with permit conditions as determined by the Town Manager may result in summary revocation of the permit by the Town Manager.

(e) This Article and each permit shall be administered so as to promote the orderly use of the Town facilities and properties for major and minor festival events while preventing or mitigating financial, safety and health-related impacts from such events to the Town, the Telluride Region and its residents. (Prior code 12.12.060)

Sec. 11-4-70. Exemption procedure.

The Town Council may by resolution exempt a major or minor festival event from requirements of all or part of this Article, or the Town Council may conditionally waive the applicability of sections of this Article to such events or their organizers, except that no exemption shall be granted as it pertains to Section 11-4-30 above regarding crowd size. (Prior code 12.12.070; Ord. 1288 §1, 2008)

Sec. 11-4-80. Violations; fine.

Violation by any person of any of the provisions of this Article or of any permit condition shall constitute a misdemeanor, which may be punished upon conviction by a maximum penalty as provided for in Paragraph 1-4-10(a)(1) of this Code. (Prior code 12.12.080; Ord. 1288 §1, 2008)

CHAPTER 13

Municipal Utilities

Article 1 General Provisions

Sec. 13-1-10 Purpose
Sec. 13-1-20 Interpretation
Sec. 13-1-30 Definitions
Sec. 13-1-40 System described; administration
Sec. 13-1-50 Permit required; connection or tap
Sec. 13-1-60 Permit expiration for water tap
Sec. 13-1-70 Fees and costs
Sec. 13-1-80 Main or trunk line extension
Sec. 13-1-90 Wintertime taps
Sec. 13-1-100 Connections outside Town
Sec. 13-1-110 Individual water service lines for each building
Sec. 13-1-120 Separate meters required
Sec. 13-1-130 Installation of meters
Sec. 13-1-140 Maintenance of facilities
Sec. 13-1-150 Right of entry
Sec. 13-1-160 Water shut off for system maintenance
Sec. 13-1-170 Sewer connection required; private sewage disposal
Sec. 13-1-180 Cross-property service lines
Sec. 13-1-190 Nonacceptable waste
Sec. 13-1-200 Sewer control manhole
Sec. 13-1-210 Fire hydrants

Article 2 Service Charges

Sec. 13-2-10 General provisions
Sec. 13-2-20 Water rates
Sec. 13-2-30 Sewer rates
Sec. 13-2-40 Out-of-town debt support surcharge
Sec. 13-2-50 Billing procedure
Sec. 13-2-60 Surcharge for unmetered units
Sec. 13-2-70 Septic tank sludge
Sec. 13-2-80 Free service for firefighters and emergency medical technicians
Sec. 13-2-90 Payment required
Sec. 13-2-100 Account name
Sec. 13-2-110 Liability of owner and occupant
Sec. 13-2-120 Delinquency
Sec. 13-2-130 Reduction by petition

Article 3 Unlawful Practices

Sec. 13-3-10 Unauthorized water use
Sec. 13-3-20 Failure to meter or tampering with meters
Sec. 13-3-30 Unauthorized use of fire hydrant
Sec. 13-3-40 No interference with waterworks or sewage works
Sec. 13-3-50 Dumping tank sludge
Sec. 13-3-60 Extraterritorial service

Sec. 13-3-70 Commercial water systems
Sec. 13-3-80 Failure to maintain facilities
Sec. 13-3-90 Individual service lines
Sec. 13-3-100 Nonacceptable waste; runoff water from construction
Sec. 13-3-110 Failure to install, maintain, test or inspect backflow prevention assembly
Sec. 13-3-120 Omnibus section
Sec. 13-3-130 Penalty

Article 4 Cross-Connection Control
Sec. 13-4-10 Adoption of Colorado Cross-Connection Control Manual
Sec. 13-4-20 Requirements
Sec. 13-4-30 Violations and penalties

Article 5 Water Conservation Code
Sec. 13-5-10 Purpose and applicability
Sec. 13-5-20 Installation of high-efficiency fixtures
Sec. 13-5-30 Landscaping
Sec. 13-5-40 Water shortages and conservation
Sec. 13-5-50 Violations and penalties

ARTICLE 1

General Provisions

Sec. 13-1-10. Purpose.

The underlying purpose and policy of this Chapter is to simplify, clarify and standardize the law governing water and sewer services supplied by the Town while encouraging conscious water usage. (Prior code 13.04.010; Ord. 1288 §1, 2008)

Sec. 13-1-20. Interpretation.

This Chapter shall be construed and applied to promote its purposes and policies. (Prior code 13.04.020)

Sec. 13-1-30. Definitions.

For the purposes of this Chapter, the following terms have the meanings given in this Chapter, and the rules set out in this Chapter shall apply.

Abandoned tap means the disconnection from the Town's water or sewer main or trunk line, including removal of service lines, curb stops or any other appurtenance used to make the initial connection.

Base quantity means the maximum gallons of water that may be used before incurring additional charges.

Base rate means the minimum water or sewer service charge for a given billing period. Each category of water and sewer customer shall be billed a base rate for a specified base quantity of water, or any part thereof, used during a billing period.

Curb stop shall:

a. Mean the appurtenance, whether described as a stop, corporation stop, curb box or otherwise, located between the connection to the Town water distribution main and the service line to any premises;

b. Be located in a dedicated right-of-way or easement; and

c. Become the sole and exclusive property of the Town.

Fixture unit means a quantity in terms of which the load-producing effects on the plumbing system of different kinds of plumbing fixtures as expressed on the table of fixture units as promulgated by the Town Manager.

Food Service Establishment (FSE) means any commercial, institutional, or food processing facility that discharges kitchen or food preparation wastewaters and that is required to have a grease control device pursuant to the International Building Code.

Grease control device means a device used to collect, contain, and remove food waste and grease from the wastewater while allowing the remaining wastewater to be discharged to the Town's wastewater collection system. Devices include grease interceptors, grease traps, automatic grease removal devices or other devices approved by the Town Manager.

Nonacceptable waste means any of the following:

a. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit.

b. Any water which has any biochemical oxygen demand and which is more than one-tenth of one percent (0.1%) waste by weight as averaged during any twelve-hour period.

c. Any petroleum product, any radioactive product or any flammable or explosive solid, liquid or gas.

d. Any garbage that has not been shredded sufficiently so that:

1. All particles will be carried freely under normally prevailing flow conditions, and

2. No particle is greater than one-half (½) inch in any dimension.

e. Any solid or liquid substance capable of obstructing the flow in the sewer or of otherwise interfering with the proper operation of the sewage works, including but not limited to:

1. Ashes, cinders, sand and mud;

2. Shavings, feathers, tar and plastics;

3. Rags, glass and metal; and

4. Fats, oils, and grease.

f. Any substance having a pH lower than six (6) or higher than nine (9) or having any other corrosive property capable of causing damage or hazard to structures, equipment, personnel or the sewage works.

g. Any water or waste containing a toxic or poisonous substance in quantities sufficient to interfere with the sewage works, to endanger humans or animals or to create any hazard in the receiving waters of the sewage treatment plant.

h. Any waters or wastes containing any substance such that unusual attention or expense would be required to handle such materials at the sewage treatment plant.

i. Any noxious or malodorous gas or substance capable of creating a public nuisance.

j. Any runoff storm waters or surface waters and drainage.

k. Any runoff water from any construction or construction site.

l. Industrial wastes of unusual strength or composition unless the Town and producer have entered into an agreement for accepting such waste and fixing any rates and charges therefor.

Private sewage disposal system means a facility for treating, neutralizing, stabilizing or disposing of sewage, which is not a part of or connected with the sewage works.

Proper disposal for waste removed from a grease control device or used fryer oil means that the substance is removed from the premises by a Waste Grease Transporter that is registered with the Colorado Department of Public Health and Environment to handle such waste.

Waste Grease Transporter means a contractor who collects the contents of a grease interceptor or trap, or used fryer oil and transports it to a recycling or disposal facility.

Sanitary sewage means the waste from:

a. Water closets and urinals.

b. Lavatories, sinks, bathtubs, showers, household laundries and cellar floor drains.

c. Bars, soda fountains and cuspidors.

d. Refrigerator drips and drinking fountains.

e. Any other waterborne waste not constituting industrial waste or nonacceptable waste.

Service line means either the water distribution pipeline running from the Town water main to the building, property or unit to be served or the sewer collection pipeline running from the building, property or unit to be served to the Town wastewater collection main. The service line consists of a publicly maintained portion from the main to the property line and a

privately maintained portion from the building, property or unit to be served to the property line.

Tap means the act of connecting to the Town's water or sewer main or trunk line by any water-using or sewer-using property or unit. This does not include the installation or connection of any service lines, meters, meter pit, corporation stop, curb stop or other necessary labor and appurtenances for service connection.

Town Manager means the Town Manager and/or his or her designee.

Unmetered water-using unit means any water-using or sewer-using unit which:

a. Has access to water from the waterworks which, if used, would not be measured by a meter.

b. Has a meter which also measures water used by a different water-using unit.

c. Has a meter which is not in working order.

d. Has a meter which is inaccessible under the standards of this Chapter.

e. Has a meter which has not been approved by the Town Manager.

Utility charges means all charges associated with receiving water and/or sewer service.

Water-using property means any real estate which contains within its bounds one (1) or more water-using units. *Sewer-using property* means the same as *water-using property*.

Water-using unit means any structure or building or part thereof which has a source of running water. *Sewer-using unit* means the same as *water-using unit*.

a. *Residential water-using or sewer-using unit* means any water-using unit which is a dwelling as defined in the Land Use Code.

b. *Commercial or nonresidential water-using or sewer-using unit* means any water-using unit which is not a residential water-using unit.

c. *Structures having mixed use* means every structure which houses one (1) or more commercial uses, as well as one (1) or more dwelling units, and shall be deemed to contain the number of commercial and residential water-using units contained therein, if each unit has a separate meter. If any combinations of units share a single meter, all units shall be deemed commercial water-using units until individual units are brought into compliance with this Chapter. (Ord. 1375, 2013; Prior code 13.04.030; Ord. 1288 §1, 2008)

Sec. 13-1-40. System described; administration.

(a) The waterworks and sewage works, owned and operated by the Town and used to provide water and sewer service, shall be known as the *waterworks* and *sewage works*.

(b) In all cases specifically provided for in this Chapter, the Town Manager shall determine in what manner water may be taken from the waterworks and in what manner wastewater may be admitted to the sewage works. The Town Manager is responsible for the management and operation of the waterworks and sewage works.

(c) The Town Manager may promulgate written rules, regulations, policies and procedures consistent with the provisions of this Chapter as the Town Manager may deem necessary regarding the establishment of standard specifications for construction, installation, location of appurtenances and other technical specifications. A copy will be maintained in the Town Manager's office at all times. A user's failure to abide by all effective rules, regulations, policies and procedures

promulgated by the Town Manager is the same as a violation of this Chapter. (Prior code 13.04.040)

Sec. 13-1-50. Permit required; connection or tap.

(a) No person shall open, uncover or in any manner make connection with or tap any main or line of the Town waterworks or sewage works, or lay water, drain or sewage pipes on any public or private premises, without first obtaining a written permit from the Town Manager.

(b) No person shall increase the number of fixture units served by an existing connection to the waterworks or sewage works without obtaining a written permit from the Town Manager.

(c) Applications for a permit to tap or add fixtures will be reviewed to ensure that all proposed construction complies with all applicable codes. Where review necessitates that Town officials consult with an engineer or other expert, the costs of the consultation shall be borne by the applicant.

(d) A permit for water service will not be issued unless the approved building permit plans provide for the installation of a separate curb stop, or other approved shut-off device, for each water-using unit to facilitate individualized service to each water-using unit.

(e) A permit for sewer service will not be issued unless the property to be serviced has its own service line for each of the property's structures in which there are one (1) or more sewer-using units connecting to the sewage works main. No connection with the sewage works shall be made by extending a service line from one (1) property to another.

(f) All curb stops, connections of service lines, meters or other appurtenances as necessary must be installed and approved by the Town Manager prior to the issuance of a certificate of occupancy.

(g) All connections authorized by the permit shall be made strictly in accordance with the terms and conditions of the permit and the requirements of this Chapter. The Town Manager may revoke a permit because of defective work which has not been corrected promptly after the giving of written notice or because of failure to complete the work within the time limit specified in the permit. The property owner shall be responsible for any and all work done pursuant to the permit, regardless of whether the work is actually done by a contractor or other authorized representative of the contractor or owner. (Prior code 13.04.050)

Sec. 13-1-60. Permit expiration for water tap.

(a) No water tap shall be issued by the Town except in conjunction and simultaneously with the issuance of a building permit. If the increased-fixtures permit is issued in conjunction with a building permit and construction is not completed by the time of expiration of the building permit, the tap or increased-fixtures permit shall expire simultaneously with the building permit and shall be null and void; and the tap, if connection has been made, shall be abandoned by legal disconnection from the Town water main.

(b) Water service shall be discontinued to any tap so abandoned. (Prior code 13.04.060)

Sec. 13-1-70. Fees and costs.

(a) Fees shall be imposed on all new connections to the waterworks or sewage works for any water-using or sewer-using unit to partially compensate the Town for capital improvements and investment, including the costs associated with water rights acquisition and water treatment, storage and transmission.

(b) Fees shall be imposed on all increases in the number of fixtures being served by an existing connection to the waterworks or sewer works. In limited situations where increased fees are imposed upon additional fixtures or changes of use and unusual circumstances exist that may justify a reduction to the increased fees, the Town Council may allow such a reduction on a case-by-case determination. Such determinations shall be subject

to initial review and approval by the Town Manager and the Public Works Director. Approval of such reductions by the Town Council shall require an extraordinary majority of the Council.

(c) The amount of the fees shall be determined by ordinance as may be from time to time adopted by the Town Council. All fees in place on January 1, 2003, shall remain in full force and effect until modified by the Town Council.

(d) Permits for new connections or increased fixture units shall not issue until the applicable fee has been paid in full.

(e) All costs of connecting the water-using or sewer-using property with the waterworks or sewage works shall be paid by the owner. These costs include, but are not limited to, the purchase and installation of a curb or other stop, and all service lines, facilities and appurtenances from the Town's main or trunk lines to the water-using or sewage-using unit. Once installed, all of the foregoing shall become the property of the waterworks or sewage works. Nevertheless, the owner of a water-using or sewer-using property or unit shall continue to be responsible for the maintenance, at his or her own expense, of the installations from the curb stop to the water-using or sewer-using property or unit.

(f) The Town Manager may enter into agreements to allow for installment payment schedules for tap fees, provided that all such fees are paid in full prior to the issuance of a certificate of occupancy or other financial arrangements are made satisfactory to the Town Manager. Such agreements shall only be established to facilitate the timely construction of Town-owned public facilities and affordable housing, or in cases of demonstrated significant hardship or if an installment payment schedule would significantly advance the public interest, and only if the Town Manager determines, in his or her own judgment, that such an agreement would further the public interest. Installment payments shall be contractually agreed upon. (Prior code 13.04.070; Ord. 1288 §1, 2008; Ord. 1421, 2015)

Sec. 13-1-80. Main or trunk line extension.

If the proposed tap cannot be made unless an extension to the Town's existing main or trunk lines is made, then a permit shall issue only as follows:

(a) If the Town has budgeted funds for such an extension within the fiscal year that the applicant files for a permit, then the Town may, but is not required to, bear the costs of the extension, and a permit may be issued without the applicant bearing the costs.

(b) If the Town has not budgeted funds for such an extension within the fiscal year of the application, the applicant shall pay the costs of such extension before a permit may be issued. A person who has paid the costs of an extension to the main or trunk lines of the waterworks or sewage works may be reimbursed according to the relative lot frontages of water-using properties abutting the extension, on a pro rata basis, from persons who are subsequently given permits to tap onto that extension, in accordance with the provisions of Chapter 15, Article 13 of this Code. The Town Manager shall ensure such reimbursement by conditioning the issuance of subsequent permits to tap onto the extension on the payment of a pro rata share of those costs. In no event however, shall the Town or the Town Manager be liable for failing to ensure the reimbursement, or for the reimbursement. (Prior code 13.04.080)

Sec. 13-1-90. Wintertime taps.

No permit shall issue for a tap to the waterworks or sewage works to be made between November 15 of one (1) year and April 15 of the following year. A permit for a tap to the waterworks or sewage works to be made between November 1 and November 15 or between April 1 and April 15 may issue only under favorable weather conditions as determined by the Town Manager. (Prior code 13.04.090)

Sec. 13-1-100. Connections outside Town.

An application for a tap which would connect to the waterworks or sewage works of any property which is outside the Town limits shall be evaluated by the Town Manager and by the Planning and Zoning Commission. They shall submit their conclusions and recommendations to the Town Council. No permit for such a tap shall issue except by ordinance. (Prior code 13.04.100)

Sec. 13-1-110. Individual water service lines for each building.

(a) No person receiving water through the distribution system shall so extend any line as to supply water to the owner or occupant of any other premises.

(b) Only one (1) premises shall be supplied with water through a single service line connected to the Town distribution system, except in the case of a hotel, motel, lodge, resort, apartment house or other similar place of business under single ownership and reasonably operated as an integrated unit or condominium in which one (1) person or association is responsible for payment of water charges. Common-wall units with separate ownership and no responsible association shall have separate service lines.

(c) The Town Manager may authorize a building to be serviced by more than one (1) service line.

(d) In the event of the sale or transfer of title to any water-using unit receiving water which is accompanied by such a different change of use that a different rate for the use of water is applicable, or in the event of a change of one (1) type of use to another use for which a different rate is applicable, the owner effecting the change in use or the new owner shall be responsible for payment of the proper rates from the time the change of use occurs.

(e) In the event that a water-using property presently receiving water is divided into separate ownerships, each owner shall have a separate service line with a legally and physically accessible shut-off, and each additional user shall pay the applicable water service rate and charges.

(f) Installation of service lines shall be done at the sole expense of the owner and in accordance with the specifications promulgated by the Town Manager. (Prior code 13.04.110)

Sec. 13-1-120. Separate meters required.

(a) The owner of each existing and new water-using unit shall install, at his or her own expense, a separate meter which measures all of the water used by the unit and none of the water used by any other unit.

(b) Any preexisting unmetered water-using unit shall be brought into compliance no later than on the happening of any of the following:

(1) Prior to the resumption of service following any discontinuance of service;

(2) Prior to the commencement of the service when the use of the water-using unit changes so that a different classification applies to the new use;

(3) Within sixty (60) days after there is a change of ownership; or

(4) On the increase of any fixture units.

(c) The Town Manager shall make a final meter reading and inspection prior to the change of ownership on any property upon which metered water service exists. The reading and inspection shall be as close to the closing date as is reasonably possible. (Prior code 13.04.120)

Sec. 13-1-130. Installation of meters.

(a) Meters shall be the type and model designated by the Town Manager and installed in compliance with the Uniform Plumbing Code adopted by the Town and the policies and procedures promulgated by the Town Manager. Such meters

shall have data transmitter devices and may, along with backflow prevention devices, be purchased from the Town to ensure uniformity of installation and design.

(b) A meter's data transmitter device shall be located on the exterior of the premises so as to allow unfettered and safe access for remote reading, removal, inspection, repair, maintenance and replacement.

(c) Meters shall be inspected and approved for operation by the Town Manager upon installation.

(d) All meters shall be installed, approved and working prior to the issuance of a certificate of occupancy for construction requiring new meters. (Prior code 13.04.130; Ord. 1288 §1, 2008)

Sec. 13-1-140. Maintenance of facilities.

(a) That portion of the water service line from the curb stop to the premises being serviced shall be maintained by the owner at his or her own expense. That portion of the sewer service line from the property line to the premises being serviced shall be maintained by the owner at his or her own expense.

(b) The owner of any water-using or sewer-using property or of any water-using or sewer-using unit within a water-using or sewer-using property shall at all times keep all pipes from the property boundary to the water-using or sewer-using unit, and all fixtures, plumbing and appliances in and around the water-using or sewer-using unit, in good working order so as to prevent any waste of water. The owner shall, at his or her own expense, thaw all frozen pipes on the property. The owner of any water-using or sewer-using property or of any water-using or sewer-using unit within a water-using or sewer-using property shall, at the owner's expense, maintain the meter and appurtenances in good working order at all times.

(c) If at any time the Town Manager ascertains that any pipe, fixture or appliance on any water-using or sewer-using property is defective, the Town Manager shall immediately notify the user and the owner to repair the defect. If the repair is not effected within five (5) days from the date of such notice, the Town Manager may shut off the water on those premises. The Town Manager, following the failure of the owner to repair any defect described in this Subsection, may abate the defect, following the provisions of Chapter 7, Article 1 of this Code and the cost thereof shall become part of the utility charges due.

(d) If at any time the Town Manager ascertains that any meter and/or meter appurtenance on any water-using or sewer-using property is not in compliance with this Chapter, the Town Manager shall immediately notify the user and the owner, in writing delivered by certified mail, to bring the unit into compliance. The notice shall specify a compliance date that provides for a reasonable period of time for correction. If the unit is not in compliance by the date specified in the notice, the Town Manager may, in addition to any other remedy available at law, shut off the water to the unit. The Town Manager, following the failure of the owner to comply, may order abatement as provided in Section 13-3-20, and the cost thereof shall become part of the utility charges due. (Prior code 13.04.140; Ord. 1288 §1, 2008)

Sec. 13-1-150. Right of entry.

(a) The Town may read any meter at any reasonable time.

(b) The Town Manager may, from time to time, order the inspection of water-using and sewer-using units to ascertain the character and extent of water and sewer usage and the condition of the water and sewer pipes, meters, fixtures and appliances; to determine if water is being wasted; to ascertain whether fixtures have been added for which no permit has been granted; and to otherwise ascertain whether the provisions of this Chapter are being followed.

(c) If access to a water-using or sewer-using unit is necessary to repair or install meters, the unit shall be deemed unmetered until access has been

gained and the meter has been installed or repaired and is in working order.

(d) The procedure for entry onto the water-using unit for the purpose of inspection, repair, maintenance or installation shall be as follows:

(1) Request. The Town representative seeking entry shall first present proper credentials to the occupant of the unit and request entry. If the unit is unoccupied, the Town representative seeking entry shall first make reasonable efforts to locate the owner of the unit or other person who has charge or control over the unit. If such person is located, the Town representative seeking entry shall present proper credentials to, and seek entry from, such person. If consent to the entry is given, the Town representative seeking entry shall enter.

(2) Refusal of or failure to locate person in charge. If entry is refused, or if the owner, occupant or person in charge of the premises cannot be located after a reasonable effort, the Town representative seeking entry shall leave at a prominent place at the unit a written notice of intent to inspect. The notice shall be addressed to the owner, occupant or person in charge of the unit and shall state:

a. That the addressee has the right to refuse entry to anyone who does not have a search warrant; and

b. That, in the event of such a refusal, entry and inspection shall be made only with the aid of a duly issued search warrant.

(3) Search warrant. If permission to enter has not been received within twenty-four (24) hours of posting or delivery of the notice of intent to inspect, the person seeking entry may apply for a search warrant before the judge of any court having jurisdiction.

(4) Entry; resisting entry under search warrant prohibited. Any public servant or peace officer acting under a search warrant may use reasonable force to gain entry to the premises described on the search warrant. It is unlawful for any person to resist the entry into the unit of any person acting pursuant to a search warrant.

(e) *Emergency*, as used in this Section, means any situation creating imminent danger of loss of life, limb or property. Whenever a public servant or peace officer reasonably believes that an emergency exists requiring immediate action to avert irreparable harm, such person may enter the unit to abate the emergency by whatever actions, and with the assistance of whatever persons as are reasonably necessary. However, if such unit is occupied, the person shall present proper credentials before entering. (Prior code 13.04.150)

Sec. 13-1-160. Water shut off for system maintenance.

(a) The Town Manager may shut off water in water mains, trunks and service lines as needed for repair and construction. Except in the case of emergency, the Town Manager shall give notice, which may be oral, to the affected users at least twenty-four (24) hours before a shutdown. The notice shall set forth the date, time and duration of the shutdown.

(b) Except in the event of an emergency, no person other than a duly authorized employee of the Town shall open or turn on any water valve or curb stop regulating the flow of water from the water mains to any water-using unit or water-using property.

(c) If an emergency necessitates the shutting off of some lines to increase pressure in others, the Town Manager may, without any liability whatsoever, order such shutdowns without notice to the affected users. (Prior code 13.04.160)

Sec. 13-1-170. Sewer connection required; private sewage disposal.

The owner of every property within the Town on which sanitary sewage is generated shall connect the property to the sewage works. No person shall

maintain within areas receiving sewer service from the Town any private sewage disposal system, such as a privy, privy vault, septic tank, cesspool or any other facility intended for the private disposal of sewage. After connection with the sewage works, the owner shall remove, or abandon and fill with suitable material, any private sewage disposal system. (Prior code 13.04.170)

Sec. 13-1-180. Cross-property service lines.

In such cases where sewer service lines have been extended from one (1) property to another, the continued use of such extensions shall not be permitted after the time sewer mains or trunks are laid in the street or alley abutting the latter property. At that time, connections shall be promptly made to the abutting sewer main or trunk at the expense of the owner of the property, and the use of the cross-property service line shall be discontinued. (Prior code 13.04.180)

Sec. 13-1-190. Nonacceptable waste.

(a) No person shall permit nonacceptable wastes to enter, directly or indirectly, into the sewage works. Except as to the mandatory FOG provisions set forth below, the Town Manager may require other owners or users to install, at his or her own expense, grease, oil or sand interceptors to be installed wherever necessary.

(b) Fats, Oils, and Grease (FOG). To aid in preventing the introduction and accumulation of fats, oils, and grease (FOG) into the municipal wastewater system, causing, tending to cause, or contributing to sanitary sewer blockages and obstructions and maintenance problems at the regional wastewater facility, all retail food establishments are required to install and maintain grease control devices and manage used fryer oil according to the provisions below:

(1) Grease Control Devices.

a. New Food Service Establishments (FSEs) shall be required to install, operate, and maintain a grease control device in compliance with the requirements of the International Plumbing Code and this Code.

b. Existing FSEs in operation as of the effective date of this Ordinance [ed. note August 17, 2012] may continue to operate and maintain their existing grease control devices, provided such grease control devices are in proper operating condition. An existing FSE shall install a new grease control device that complies with the requirements of the International Plumbing Code if its grease control device is determined not to be in proper operating condition. Existing FSEs that do not currently have a grease control device shall install a grease control device that complies with the requirements of the International Plumbing Code whenever there is a change of ownership of the real property or issuance of a building permit for remodel of the FSE kitchen.

c. Installation. Grease control devices shall be installed by a licensed plumber. Where possible, a grease control device shall be located outside. When installed inside, a grease control device shall be located away from the food preparation area. Every grease control device shall be installed and connected so that it is readily accessible for inspection, cleaning, and removal of the intercepted food waste and grease at any time.

d. Registration. Each grease control device shall be registered with the Telluride Public Works Department within 90 days of the effective date of this Ordinance or upon the date of installation. Public Works will provide a registration form.

e. Maintenance. Grease control devices shall be properly maintained at all times. Maintenance shall include the complete removal of all contents, including floating materials, wastewater and settled solids. Decanting or discharging of the removed waste back into the grease control device or private sewer line or into

any portion of the Town's wastewater collection system is prohibited. In no event shall the content of food solids and FOG exceed twenty-five percent (25%) of the overall liquid depth of the device.

f. Evidence of Maintenance. The Town Manager shall have the authority to make such inspections as are authorized by law during reasonable hours for the purpose of inspecting, observing, taking measurement, sampling, testing or reviewing the records of the grease control device(s) installed in an FSE. Upon request, FSEs must show evidence of an active contract to service all grease control devices on the premises and haul the waste. Alternatively, the FSE itself must provide evidence of regular maintenance and proper waste disposal. In either case, a copy of a Grease Control Device Maintenance & Waste Disposal Affidavit shall be required and will include the following information: date, time, volume, and responsible person or contractor. The original affidavit, as well as originals of all contracts and receipts for at least one (1) year will remain at all times on the premises of the FSE.

g. Use of additives that prevent grease from accumulating in grease control devices is prohibited.

(2) Stored Used Fryer Oil

a. *Evidence of Proper Disposal*. The Town Manager shall have the authority to require evidence of an active contract to haul used fryer oil from an FSE. Alternatively, the FSE itself must provide evidence of proper disposal, such as a receipt from a disposal facility. In either case, a copy of a Used Fryer Oil Disposal Affidavit shall be required and include the following information: date, time, volume, and responsible person or contractor. The original affidavit, as well as originals of all contracts and receipts for at least one (1) year will remain at all times on the premises of the FSE.

b. *Used Fryer Oil Storage*. The Town Manager shall have the authority to inspect all areas where used fryer oil is stored. Proper storage criteria shall include: (1) sealed storage, (2) spill containment, (3) a spill response plan. Used fryer oil is considered to be refuse and pursuant to Telluride Municipal Code §7-5-10 must be collected no less than every two (2) weeks. (Ord. 1375, 2012; Prior code 13.04.190)

Sec. 13-1-200. Sewer control manhole.

The Town Manager shall require the owner of any property served by a sewer which carries industrial waste, within thirty (30) days of written notice, to construct a suitable sewer control manhole. The manhole shall be for the purpose of observing and sampling waste. The manhole shall be constructed at the owner's expense in accordance with plans approved by the Town Manager and shall be maintained at all times in a safe and accessible condition. (Prior code 13.04.200)

Sec. 13-1-210. Fire hydrants.

The Town Manager shall maintain fire hydrants in good repair for their use by the Fire Department. (Prior code 13.04.210)

ARTICLE 2

Service Charges

Sec. 13-2-10. General provisions.

(a) The Town Manager shall analyze the operating and financial records of the water/sewer fund during each calendar year and recommend to the Town Council user rates, fees, charges and other costs for the following year. The recommendation shall be based on the cost of providing water and sewer services, including the costs of acquisition, treatment, distribution, administration, maintenance, capital improvements, accumulation of reserve for improvements and obligations of such magnitude that they cannot be acquired from the surplus revenues in a single year, and debt service, including that reasonably required for anticipated growth. Recommended user rates may also include a conservation gallonage charge or other rate component that creates an economic incentive to conserve water.

(b) Rates and connection charges may vary according to demand and volume. A rate differential may occur to meet obligations which relate to a specific group of customers or properties. Out-of-town users may be charged a higher rate than in-town users.

(c) The Town Council shall adopt fees, charges and water and sewer service rates by ordinance. (Prior code 13.08.010; Ord. 1288 §1, 2008)

Sec. 13-2-20. Water rates.

(a) Levy. A service charge is levied and assessed for water service to any lot, parcel of land, water-using unit or water-using property that receives water from the Town waterworks.

(b) Additional fees and charges may include, but need not be limited to, the following:

(1) Fees for turning water on or off at the curb stop.

(2) Standby fees.

(3) Meter installation charges.

(4) Water pumping station surcharges.

(5) Fees to cover costs of inspections, testing, maintenance and operations required by this Chapter.

(c) Contract rates not affected. Water service charges or rates as established by independent written contract, including any annexation or pre-annexation agreement between the Town and any user of water services, shall be governed, charged and collected in accordance with the terms of such contract, notwithstanding the provisions of this Section.

(d) New users construction discount. Water service charges for new users during initial construction shall be levied at a rate equal to twenty-five percent (25%) of that levied herein, beginning from the date tap fees are paid until issuance of a certificate of occupancy or the expiration of one (1) year, whichever first occurs. Thereafter, the service charges levied herein shall apply. (Prior code 13.08.010; Ord. 1288 §1, 2008)

Sec. 13-2-30. Sewer rates.

(a) Levy. A sewer service charge is levied and assessed on each lot, parcel of land, sewer-using unit or sewer-using property which is served by, or has a sewer connection with, the sewage works, or which otherwise discharges sanitary sewage, industrial wastes, water or other liquid or wastes into the sewage works, whether directly or indirectly.

(b) New users construction discount. Sewer service charges for new users during initial construction shall be levied at a rate equal to twenty-five percent (25%) of that provided for herein, beginning from the date tap fees are paid until issuance of a certificate of occupancy, or the expiration of one (1) year, whichever first occurs.

Thereafter, the services charges provided for above shall apply.

(c) Contract rates not affected. Sewer service charges or rates as established by independent written contract, including any annexation or pre-annexation agreement between the Town and any user of sewer services, shall be governed, charged and collected in accordance with the terms of such contract and not by the provisions of this Section. (Prior code 13.08.020)

Sec. 13-2-40. Out-of-town debt support surcharge.

Unless otherwise required by an ordinance or contract authorizing water and/or sewage service to out-of-town users, there shall be imposed upon each out-of-town user of the Town waterworks and/or sewage works an annual debt support surcharge rate. (Prior code 13.08.030)

Sec. 13-2-50. Billing procedure.

The Town Manager shall adopt billing procedures which are not inconsistent with the requirements set out in this Article. (Prior code 13.08.040)

Sec. 13-2-60. Surcharge for unmetered units.

(a) Since each water-using and sewer-using unit is required to have its water measured by an individual, separate meter which is accessible and in working order, the provisions set out in this Section apply to all unmetered water-using or sewer-using units. The higher charges are to encourage owners of unmetered units to install meters, keep them accessible and in good repair. These charges are necessary to cover the costs of the additional administrative burden created by the existence of unmetered water-using units.

(b) When, through no fault of the user, a meter cannot be read to determine charges for a billing period, the Town Manager shall estimate charges based on meter usage for the previous billing period. Rate adjustments to the actual usage will be made on the next bill for which a meter reading is taken, provided that the meter was operating and recording accurately during this period as required.

(c) Residential. During periods when meters are being read, unmetered residential units shall be charged at two and one-half (2.5) times the highest previous bill for actual usage.

(d) Commercial. During periods when meters are being read, unmetered commercial units shall be charged at two and one-half (2.5) times the highest previous bill for actual usage. (Prior code 13.08.050)

Sec. 13-2-70. Septic tank sludge.

Dumping of septic tank sludge and sanitary tank contents shall be at places designated by the Town Manager, and shall be charged at the rate established from time to time by ordinance of the Town Council. (Prior code 13.08.060)

Sec. 13-2-80. Free service for firefighters and emergency medical technicians.

(a) There shall be no water or sewer service charge up to the bi-monthly base gallons for any residential water-using or sewer-using unit which is inhabited by one (1) or more current members in good standing of the Telluride Volunteer Fire Department, who has been such a member for a period of not less than one (1) year. Above the base number of gallons, the charges will correspond to the approved rate structure. The purpose of this Section is to show the Town's appreciation for the voluntary fire protection and ambulance services provided gratis to the Town.

(b) There shall be no water or sewer service charge for retired firefighters with twenty (20) or more years of service, up to the bi-monthly base gallons from the Town. Above the base number of gallons, the charges will correspond to the approved rate structure.

(c) There shall be no water or sewer service charge up to the bi-monthly base gallons for any residential water-using or sewer-using unit which is

inhabited as a principal residence by at least one (1) member in good standing of the Telluride Emergency Medical Technician Association, who has been such a member for a period not less than one (1) year. Above the base number of gallons, the charges will correspond to the approved rate structure. (Prior code 13.08.070; Ord. 1288 §1, 2008)

Sec. 13-2-90. Payment required.

All water and sewer service charges must be paid, whether or not facilities are used within the water-using or sewer-using property, unless the physical connection to the waterworks has been legally abandoned. If a water-using or sewer-using unit is abandoned, service to such unit shall cease and service charges shall cease to accrue as of the date of abandonment. (Prior code 13.08.080)

Sec. 13-2-100. Account name.

All accounts shall be in the name of the record owner of the water-using or sewer-using unit; except that the owner of a water-using or sewer-using unit may, upon written request, change the account into the name of another person occupying the unit. This shall not, however, relieve the owner of liability for service charges. (Prior code 13.08.090)

Sec. 13-2-110. Liability of owner and occupant.

(a) Water. The owner of any water-using property, and the owner of each water-using unit within or on a water-using property, is liable for the water service charge. The occupants of the water-using property or water-using unit, if different from the owner, are also jointly and severally liable.

(b) Sewer. The owner of any property or premises or portion thereof, which are connected to the sewage works or which in any way discharge any sewage, industrial waste, water or other liquid, directly or indirectly, into the sewage works, is liable for sewer service charges. The occupant of such property or premises, if different from the owner, is also jointly and severally liable for these charges. (Prior code 13.08.100)

Sec. 13-2-120. Delinquency.

(a) Water and sewer service charges are due on the thirtieth day from the date the charges are billed, and become delinquent if the charges remain unpaid on the thirty-first day after billing. Billing shall be deemed to have occurred on the date appearing on the bill. Charges shall be deemed to have been paid on the date of actual receipt of payment by the Town.

(b) A penalty of five percent (5%) of the total amount of the delinquent charges shall be imposed on the thirty-first day after billing, and at the commencement of each billing period thereafter until the delinquent charges and any outstanding penalty are paid in full.

(c) The Town shall have an action for the delinquent charges plus penalties, fees and interest against the owner of the water-using or sewer-using unit and the occupant of the water-using or sewer-using unit who has been the actual user of the services. The Town Manager may elect to bring an action against either or both of those parties.

(d) Accounts which are sixty (60) days delinquent shall receive a notice of discontinuance, and water shall be shut off on the date specified in the notice unless the account balance is paid in full on or before the date and time specified. At least ten (10) days shall lapse between issuance of the notice of discontinuance and discontinuation of water service. Water service which has been discontinued for delinquency shall not be reinstated until the account balance has been paid in full plus applicable deposit and service charges.

(e) All unpaid water and/or sewer service charges and other charges and fees under this Chapter shall be a lien on the property of the owner of the water-using and/or sewer-using unit or property. If the ownership of a water-using or sewer-using unit or property should change hands, the new owner of that unit or property shall be

deemed to have had notice of all unpaid water and sewer charges and fees. The lien shall survive any transfer of ownership. It shall be collectable against the property of the new owner. If the amounts due are not paid within thirty (30) days from the due date, the Town Manager may proceed to collect them pursuant to Section 4-1-90 of this Code or in any manner provided by law.

(f) Delinquent water and/or sewer charges may be collected against any owner or user by suit, such action to be in the name of the Town, in any court having jurisdiction thereof, and to be prosecuted as an action at law or by a suit in equity. (Prior code 13.08.110)

Sec. 13-2-130. Reduction by petition.

The Town Manager may, upon petition by a water or sewer user, reduce a user's rates, for a single billing period, if the Town Manager is convinced that considerable inequity would otherwise result. However, the Town Manager shall not reduce rates for a single water-using or sewer-using unit on more than one (1) bill in one (1) year's time without the Town Council's approval by resolution. (Prior code 13.08.120)

ARTICLE 3

Unlawful Practices

Sec. 13-3-10. Unauthorized water use.

It is unlawful for any person to obtain water, to make any connection to the municipal water system except in accordance with the provisions of this Chapter, or to take water from any private connection or outlet without the permission of the person who will be billed for such water use. (Prior code 13.12.010; Ord. 1288 §1, 2008)

Sec. 13-3-20. Failure to meter or tampering with meters.

(a) It is unlawful for any person to share a meter with any other water-using unit or to allow any water-using unit to be unmetered. It is unlawful for any person to tamper or interfere with any water meter or seal, or to arrange any plumbing or piping so that the use of water or sewer service might not be accurately registered by the meter. It is further declared to be unlawful to prevent or interfere with any employee of the Town in his or her access, examination and reading of any meter.

(b) The following nonexclusive remedies may be applied at the election of the Town Manager to ensure that all water service is measured by an individual, accessible and functioning meter.

(1) Higher rates. The owner of any unmetered water-using or sewer-using unit shall pay substantially higher water and sewer service charges.

(2) Abatement. The Town Manager may enter and install, inspect, repair or maintain a meter on the premises of any water-using or sewer-using unit which is not in compliance with the requirements of this Chapter if the owner of the unit fails, within ten (10) days after the date specified in the notice, to comply. The costs of such meter and installation shall be borne by the owner and shall be added to the next regular bill for the unit's water and sewer service charges. Any unpaid costs shall be subject to the delinquency charge, interest, penalty and other collection provisions for service charges contained in Section 4-1-90 of this Code and applicable statutory provisions.

(3) Water shutoff. The Town Manager may disconnect the water service to any water-using unit, without any liability whatsoever, upon failure to meter.

(4) Withholding of permission. No approvals or permits under Chapter 15 of this Code or the Land Use Code shall issue for the alteration of any unmetered water-using or sewer-using unit unless the plans call for bringing the unit into compliance. (Prior code 13.12.020; Ord. 1288 §1, 2008)

Sec. 13-3-30. Unauthorized use of fire hydrant.

It is unlawful for any person to use water from a fire hydrant without the written authorization of the Town Manager. (Prior code 13.12.030; Ord. 1288 §1, 2008)

Sec. 13-3-40. No interference with waterworks or sewage works.

No person shall tap into or shut off any municipal water or sewer main without the prior written authorization of the Town Manager. Furthermore, no person shall injure, damage or interfere with any waterworks or sewage works property or facilities, trespass thereon or deposit, discharge, pump or place any material into any water or sewer main without prior authorization of the Town Manager. (Prior code 13.12.040)

Sec. 13-3-50. Dumping tank sludge.

No person shall dump or drain any septic tank sludge or any sanitary tank contents, or deposit other excreta, at any place except that as designated for such purpose by the Town Manager. (Prior code 13.12.050)

Sec. 13-3-60. Extraterritorial service.

Any and all users of water or sewer services as provided by the Town shall be subject to all of the regulations and penalties regarding water and sewer use and service as set forth in this Chapter, whether the point of connection or of consumption of such service is within or without the geographical boundaries of the Town. (Prior code 13.12.060)

Sec. 13-3-70. Commercial water systems.

No person shall operate a commercial water system, whatever the source of water supply, which distributes water to any water-using property within the Town. (Prior code 13.12.070)

Sec. 13-3-80. Failure to maintain facilities.

No person shall fail to maintain in good working order all plumbing, fixtures, appliances, service lines, meters and appurtenances. (Prior code 13.12.080)

Sec. 13-3-90. Individual service lines.

It is unlawful for any person receiving water or sewer service through the system to extend any line so as to supply water or wastewater collection to the owner or occupant of any other premises. (Prior code 13.12.090; Ord. 1288 §1, 2008)

Sec. 13-3-100. Nonacceptable waste; runoff water from construction.

It is unlawful for any person to cause or allow the discharge, whether directly or indirectly, of nonacceptable waste into the municipal sanitary sewer system. When the Town determines that runoff water from any construction or construction site is being discharged into the sanitary sewer system, the Town Manager shall require the owner, lessee or contractor of or on the premises to immediately remove or disconnect such runoff water discharge from the sanitary sewer system at his or her expense. (Prior code 13.12.100; Ord. 1288 §1, 2008)

Sec. 13-3-110. Failure to install, maintain, test or inspect backflow prevention assembly.

It is unlawful for the owner of a building, structure or premises to maintain or permit to exist a cross-connection in violation of any of the provisions of this Chapter. Any violation of any of said provisions shall be punishable upon conviction by a penalty as set forth in Paragraph 1-4-10(a)(1) of this Code for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter occurs or continues unabated. In addition, service of water to any premises may be discontinued if unprotected cross-connections exist on the premises or if any defect is found in an installed backflow prevention assembly. Discontinuance of service may be summary, immediate and without written notice whenever in the judgment of the Town Manager such action is necessary to protect the public potable water supply or the distribution system. (Prior code 13.12.110; Ord. 1288 §1, 2008)

Sec. 13-3-120. Omnibus section.

The enumerated foregoing unlawful practices notwithstanding, it is unlawful for any person to violate any provision of this Chapter, and any violation shall afford the Town any and all of the remedies as otherwise provided by law. (Prior code 13.12.120; Ord. 1288 §1, 2008)

Sec. 13-3-130. Penalty.

All remedies for any violations of any of the provisions of this Chapter shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. Any person found to have violated any provision of this Chapter may be punished in accordance with Paragraph 1-4-10(a)(1) of this Code. Any penalties or fees due and unpaid hereunder shall be a lien upon the property and are collectible as provided in Section 4-1-90 of this Code or as may otherwise be provided by law. (Prior code 13.12.130; Ord. 1288 §1, 2008)

ARTICLE 4

Cross-Connection Control

Sec. 13-4-10. Adoption of Colorado Cross-Connection Control Manual.

(a) There is hereby adopted and incorporated herein by reference as the cross-connection control code of the Town the *Colorado Cross-Connection Control Manual* published by the Colorado Department of Public Health and Environment, Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, CO 80246.

(b) At least two (2) copies of the *Colorado Cross-Connection Control Manual* shall be available for public inspection during regular business hours in the office of the Town Clerk. (Prior code 13.16.010)

Sec. 13-4-20. Requirements.

(a) The water system shall be considered as made up of two (2) parts: the Town's municipal supply and distribution system and the customer's system. The customer's system shall be comprised of the service line and its appurtenances.

(b) No water service connection shall be installed or maintained by the Town unless the water supply is protected as required by this Chapter and the *Colorado Cross-Connection Control Manual*. Service of water to any premises shall be discontinued by the Town if a backflow prevention device required by this Article is not installed, tested and properly maintained, if it is found that a backflow prevention device has been removed or bypassed or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(c) An approved backflow prevention device shall be installed in all buildings, structures or premises in which plumbing is installed.

(d) An approved backflow prevention device shall be installed immediately inside the premises being served before the first branch line leading off the service line.

(e) Any backflow prevention device installed, utilized, maintained or replaced as required herein shall be of a model and size approved by the Town Manager.

(f) It shall be the duty of the owner of any commercial or industrial premises where backflow prevention devices are installed to have certified inspections and operational tests made at least one (1) time annually. In those instances where the Town Manager deems the hazard of cross-connection to be great enough, he or she may require certified inspections at more frequent intervals. These shall be performed by a certified inspector and/or tester. Evidence of the results of such inspections and tests shall be submitted to the Town Manager by the owner within thirty (30) days after the device has been tested and/or inspected. The backflow prevention devices shall be repaired, overhauled or replaced at the expense of the owner of the premises whenever said devices are found to be defective. Records of such tests, repairs, overhauls and replacements shall be kept and made available to the Town Manager.

(g) The owner of the premises shall notify the Town Manager of all backflow prevention devices that are installed on the premises. Upon installation, the device will be inspected and tested by a certified inspector and/or tester. The owner shall inform the Town in writing of the results of this inspection and test. (Prior code 13.16.020)

Sec. 13-4-30. Violations and penalties.

(a) If at any time the Town Manager determines that an immediate health hazard, or the serious threat of an imminent health hazard, exists, he or she immediately may terminate water service to the building, structure or premises without prior notice to the owner or authorized agent of the owner. The owner shall be responsible for all costs associated with such termination of service. The

Town Manager shall then notify the owner or authorized agent of the owner of the building, structure or premises of the violation. If the owner fails to correct the violation in the specified time, the Town Manager shall order that the connection be abandoned. The owner shall be responsible for all costs associated with termination of service and the temporary or permanent abandonment of service.

(b) It is unlawful for the owner of a building, structure or premises to maintain or permit to exist a cross-connection in violation of any of the provisions of this Article. A violation of any of the provisions of this Article shall be punishable upon conviction by a penalty as set forth in Paragraph 1-4-10(a)(1) of this Code for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter occurs or continues unabated after the time limit set by the Town Manager in the notice. (Prior code 13.16.030; Ord. 1288 §1, 2008)

ARTICLE 5

Water Conservation Code

Sec. 13-5-10. Purpose and applicability.

Water being a finite and precious resource necessary for the preservation and enhancement of the public health, safety and welfare, and water waste is to be discouraged and water conservation encouraged, it is the purpose of this Article to regulate water use so as to promote the prudent and responsible utilization of the Town's water resources and water delivery system. This Article shall apply to all users of water and water services as supplied by the Town, to all new construction for which a building permit is required, and to the replacement of plumbing fixtures and water-using devices within existing structures when remodeling is to occur. Remodeling which does not involve replacement of existing plumbing fixtures or water-using devices shall be exempt from the provisions of this Article. This Article shall also apply to landscaping associated with new construction and/or the remodeling or reconstruction of existing structures for which a building permit is required. (Prior code 13.30.010)

Sec. 13-5-20. Installation of high-efficiency fixtures.

(a) No building permit shall be issued for the construction of a new residential, commercial or industrial structure, or for the indoor or outdoor remodeling of an existing commercial, residential or industrial structure, unless the design, construction or remodeling incorporates high-efficiency plumbing fixtures. In the instance of indoor or outdoor remodeling, compliance with this Section shall be limited to that portion of the structure for which a building permit is issued.

(b) High-efficiency plumbing fixtures shall be defined as those fixtures which comply with the following standards for water use:

(1) All water closets designed not to exceed a flow rate of one and six-tenths (1.6) gallons per flush.

(2) Urinals designed not to exceed one (1.0) gallon per flush. The use of automatic time flush devices for urinals shall not be permitted.

(3) Shower heads designed not to exceed a flow rate of two and one-half (2.5) gallons per minute at eighty (80) pounds per square inch. There shall be no more than two (2) shower heads per shower.

(4) Lavatory, kitchen and service faucets designed not to exceed a flow rate of two and two-tenths (2.2) gallons per minute at eighty (80) pounds per square inch.

(5) All commercial lavatories equipped with spring-loaded faucets that close when not in use or faucets that are equipped with metering valves that close automatically after delivering a maximum of twenty-five hundredths (0.25) gallon, except for required handicapped facilities, which may be equipped with faucets designed for the handicapped.

(6) Exceptions. Restaurant kitchen faucets and safety showers shall be exempted from the above flow restrictions. Additionally, the requirements as set forth in this Section shall not apply to fixtures used for sanitary or safety purposes in health care facilities, or to fixtures used for safety purposes in facilities where hazardous wastes are present and where health and safety might be adversely impacted by limited flow rates. Exemptions may also be granted where the enforcement of the requirements would impose an unusual hardship, create a health hazard, interfere with the use by the physically challenged, or for other unforeseen justifiable cause. All exemptions shall be granted in writing by the Building Official and the cause for exemption shall be noted.

(c) The manufacturer's name and model for each type of high-efficiency fixture to be installed in

any building or structure shall be provided to and approved by the Building Official prior to installation. The Building Official may maintain a listing of acceptable high-efficiency fixtures that shall be updated on a regular basis so that plumbing contractors and other interested persons may be informed as to the type and kind of fixtures that may be installed in accordance with the requirements of this Article.

(d) No person shall alter or maintain any approved high-efficiency fixture so as to increase the flow of water beyond the fixture's intended design.

(e) Certification of compliance. For facilities for human use within office, commercial and industrial structures, the plumbing contractor or party responsible for the installation of said water flow control fixtures and fittings shall certify to the inspecting governmental entity that the fixtures and fittings conform with the volume and ratio of water flow to gallons per minute stipulated by this Section. In lieu of such certification, the results of tests performed by an approved independent testing laboratory or the manufacturer, using established principles of mechanics, shall be acceptable.

(f) Waiver of requirements. The Building Official may waive compliance with the requirements of this Section upon satisfactory demonstration by an applicant that the enforcement of the water conservation requirements specified in this Section would be detrimental to the public health or safety in a given case. Such waiver may also be granted if the Building Official determines that the requisite fixtures and fittings would cause a sewer hydraulic gradient insufficient to handle reduced water flows. (Prior code 13.30.020)

Sec. 13-5-30. Landscaping.

Any new lawn, garden or outside area that is to be watered, sprinkled or otherwise irrigated with water supplied through the municipal potable water delivery system shall comply with the provisions of this Section as a condition precedent to connecting any irrigation system or device to the municipal potable water supply.

(1) All grasses and plantings to be installed in any yard, garden or other outside area, excluding vegetables or other edible plants cultivated for human consumption, should be of a drought-tolerant native species that requires minimal water irrigation. The Director of Parks and Recreation shall promulgate and regularly update an advisory list of drought-tolerant native species and acceptable mixtures of such species to guide landscape architects and other interested persons in the selection of acceptable plants and grasses. Xeriscaping shall be encouraged for all landscape plans. A failure to comply with the provisions of this Paragraph shall not constitute a punishable offense under this Code, it being the intent of this Section to encourage, but not require, compliance with the provisions hereof.

(2) All new irrigation systems to be connected to the municipal potable water supply must incorporate the most water-conserving-type equipment and devices commercially available as of the time the system is submitted for approval, and no new irrigation system shall be connected to the municipal potable water supply without having first been approved by the Building Official. At a minimum, new irrigation systems shall meet the following requirements:

a. All automatic systems shall be equipped with time-activated control clocks and shutoff valves.

b. The systems shall be equipped with sprinkler heads of a type which provide the most uniform coverage and maximum feasible droplets sized to reduce evaporation and wind disturbance of the coverage (pulsating type).

c. Where the slope gradient to be irrigated so requires, the systems shall be designed to control flow for the purpose of reducing runoff.

d. Where appropriate, drip irrigation shall be preferred.

(3) Irrigation systems connected to the municipal potable water supply prior to the enactment of this Section, and which do not meet the provisions and requirements of this Section, shall be exempt herefrom; except that, in the event a preexisting irrigation system is to be removed and reinstalled, replaced or expanded, such system shall be brought into compliance with all of the requirements of this Section.

(4) No building permit shall be granted for the construction of a new residential, commercial or industrial building or structure unless the installation of all landscaping associated with such construction and devoted to the cultivation of grass or plantings for aesthetic purposes, and not for agricultural food production, includes proper soil preparation. Proper soil preparation shall consist of the addition to existing soils of a minimum of three (3) cubic yards per one thousand (1,000) square feet of organic matter introduced by tilling, discing or other suitable method to a minimum depth of four (4) inches. Acceptable organic matter shall include compost, aged manures, aged sawdust or any combination of the above.

(5) The use of raw water for the irrigation of yards, gardens and other outside areas is preferred to irrigation using potable water and, when available, shall be required in place of potable water.

(6) Use of municipal treated water for irrigation for any public or private lawns, gardens, trees, shrubs, plants, municipal or school fields, golf courses, cemeteries or similar grass areas shall occur only between the hours of 5 pm and 9 am daily. This restriction shall not apply to drip irrigation, watering cans or hoses with shut-off nozzles. It shall also not apply to watering for dust suppression during concerts and special events. Exemptions to this restriction may be granted by the Town Manager for newly planted lawns and landscaping in their first year on a case-by-case basis. The provisions herein shall be subject to the violations and penalties set forth in §13-5-50. (Ord. 1408, 2014; Prior code 13.30.030; Ord. 1288 §1, 2008)

Sec. 13-5-40. Water shortages and conservation.

(a) Water shortage defined. A water shortage is declared to exist if one (1) or more of the following circumstances exist:

(1) When the Town's total water treatment capacity and potable water consumption are approaching or at eighty percent (80%) for voluntary conservation and ninety percent (90%) for mandatory conservation; or the Town Manager otherwise determines that the Town's raw water supply or water treatment system is insufficient to satisfy the daily water use demands for the applicable time period. Total water treatment capacity shall be determined by the Public Works Director utilizing the total combined treated water available from the Town's Mill Creek Plant, the Stillwell Tunnel Plant and such other potable water supply systems as may be developed by the Town.

(2) When the Town is unable to treat sufficient water to maintain its treated water storage reservoirs at Stillwell, the Falls at Telluride or any other raw or treated water storage reservoirs developed by the Town, at their maximum capacity.

(3) When an emergency condition arises, such as a mechanical breakdown or reduced treatment capacity due to high stream turbidity, insufficient raw water supply or fire flow requirements.

(4) When any or all of the above is anticipated to occur in the near future and it is determined that immediate imposition of conservation measures is necessary to ensure adequate time for public awareness and education to ensure the level of compliance required.

(5) When implementation of water conservation measures is required by reason of any water court decree or stipulation.

(b) Declaration of shortage. The Town Manager or Town Council, as the case may be, shall determine if a water shortage exists and whether to implement voluntary or mandatory conservation measures and which of the measures identified below to implement. The Town Manager shall make public announcements in the news media that voluntary or mandatory conservation measures are in effect and shall include a description of the conservation measure or measures to be implemented.

(c) Conservation measures imposed by Town Manager. The Town Manager may impose any one (1) or more of the following as mandatory or voluntary conservation measures in the event of a water shortage. The measures imposed and their duration shall be reasonably calculated to address the identified water shortage. The listing below is not in order or preference, nor is imposition of one (1) a condition precedent to imposition of any subsequently listed measure.

(1) Persons will be urged to conserve water in every possible way in their homes and businesses.

(2) Persons will be urged to avoid sprinkling their lawns and watering gardens, shrubs, trees or plants unless needed to avoid damage or loss and, at any rate, not more than every second day for not more than thirty (30) minutes per twenty-four-hour period.

(3) Washing of public or private sidewalks, streets, driveways, parking areas, tennis courts, patios or other paved areas with municipal treated water shall be prohibited.

(4) Power washing of structures with municipal treated water shall be prohibited.

(5) Filling, refilling or replacement of water in swimming pools, hot tubs or landscape water features with municipal treated water shall be prohibited; provided, however, that the Town Manager may permit filling of municipal or public pools and may allow the addition of water to public or private pools, hot tubs or water features to make up for losses through evaporation or use.

(6) Installation of new public or private landscaping shall be prohibited. In the event that landscaping is required as a condition of development approval, the requirements will toll during the period of imposition of conservation measures but eventual installation will continue to be secured by any required bonding.

(7) Service of water to restaurant patrons shall be prohibited unless requested by the patron.

(8) Noncommercial washing of privately owned cars or other motor vehicles, trailers or boats with municipal treated water shall be prohibited, except by bucket.

(9) Use of municipal treated water for commercial car washes shall be prohibited.

(10) Use of municipal treated water for irrigation for any public or private lawns, gardens, trees, shrubs, plants, municipal or school fields, golf courses or similar grass areas shall be prohibited except for a period not to exceed thirty (30) minutes, only between the hours of 9:00 p.m. to 9:00 a.m., and on days designated by the Town Manager. The Town Manager shall establish a schedule for irrigation that may be determined by any method he or she deems appropriate, including the establishment of zones within the area receiving municipal water service. These restrictions shall not apply to any person engaged in the business of growing or selling plants of any kind, with respect to water for such plants only.

(d) Conservation measures imposed by Town Council.

(1) The Town Council may, in the event of a water shortage, impose by resolution one (1) or both of the following conservation measures:

a. A prohibition against the use of any municipal treated water to sprinkle or irrigate any lawn, yard, garden, landscaping or other outside area. The prohibition shall apply to all residences, businesses and institutions, as well as all parks and public buildings. The restriction shall not apply to any person engaged in the business of growing or selling plants with respect to such plants only.

b. A prohibition against any new connections to the municipal water system; provided that applications pending on the date of the adoption of the resolution imposing this restriction shall be granted a connection. For purposes of this Section, *pending applications* means any applications for development that require new or additional water taps filed with and certified complete by either: (1) the Planning Director if approval under the Land Use Code is required prior to issuance of a building permit; or (2) the Building Official if no approval under the Land Use Code is required.

(2) Prior to and as a condition to imposition of either or both of the above, the Town Council shall have found and determined that the water shortage is of such severity or possible duration that imposition of the water conservation measures described in Subsection (c) above are inadequate and immediate imposition of one (1) or both of the water conservation measures described in this Subsection is required for the preservation of public health and safety. The facts underlying such determination shall be specified in the resolution imposing the measures.

(e) Applicability. The water conservation measures shall apply to all users and properties served by the municipal water system, whether the point of connection or of consumption of such service is located inside or outside the Town boundaries.

(f) Termination of conservation measures. Voluntary or mandatory conservation measures may be reduced or terminated upon the announcement of the Town Manager (or Town Council with respect to measures imposed by the Town Council) when the water shortage requiring such measures has abated. (Prior code 13.30.040; Ord. 1288 §1, 2008)

Sec. 13-5-50. Violations and penalties.

(a) Whenever a violation of a mandatory water conservation measure is observed, or whenever probable cause exists to believe a violation of a mandatory water conservation measure has occurred, a written notice shall be posted in a conspicuous place on the property where the violation occurs or occurred. Said notice shall describe the violation and order that it be abated, corrected or cured immediately or within such time as specified in the notice. If the order is not complied with as specified in the notice, water service to the property upon which the violation occurred or is occurring may be disconnected.

(b) Any person aggrieved by a water service disconnection may seek a hearing before the Town Council by requesting the same within five (5) days of the service disconnect. Such request shall be submitted to the office of the Town Manager in writing.

(c) Any person found to have violated any provision of this Section shall be assessed a penalty of five hundred dollars ($500.00) for the first offense and one thousand dollars ($1,000.00) for any subsequent occurrence within any twelve-month period.

(d) In addition to any other fee or penalty authorized under this Code, a fee of one hundred dollars ($100.00) shall be paid for the reconnection of any water service after disconnection pursuant to Subsection (a) above if a violation is found to have occurred.

(e) The remedies provided for herein are cumulative. In addition, any penalties or fees due and unpaid hereunder shall be a lien upon the property and are collectible as provided in Section 4-1-90 of this Code or as may otherwise be provided by law. (Prior code 13.30.040; Ord. 1288 §1, 2008)

CHAPTER 15

Building Regulations

Article 1 International Building Code
Sec. 15-1-10 Adoption
Sec. 15-1-20 Copy on file
Sec. 15-1-30 Amendments
Sec. 15-1-40 Penalty
Sec. 15-1-50 Appeals

Article 2 International Residential Code
Sec. 15-2-10 Adoption
Sec. 15-2-20 Copy on file
Sec. 15-2-30 Amendments
Sec. 15-2-40 Penalty
Sec. 15-2-50 Appeals

Article 3 International Existing Building Code
Sec. 15-3-10 Adoption
Sec. 15-3-20 Copy on file
Sec. 15-3-30 Amendments
Sec. 15-3-40 Penalty
Sec. 15-3-50 Appeals

Article 4 National Electrical Code
Sec. 15-4-10 Adoption
Sec. 15-4-20 Copy on file
Sec. 15-4-30 Amendments
Sec. 15-4-40 Penalty
Sec. 15-4-50 Appeals

Article 5 International Plumbing Code
Sec. 15-5-10 Adoption
Sec. 15-5-20 Copy on file
Sec. 15-5-30 Amendments
Sec. 15-5-40 Penalty
Sec. 15-5-50 Appeals

Article 6 International Fire Code
Sec. 15-6-10 Adoption
Sec. 15-6-20 Copy on file
Sec. 15-6-30 Delegation of enforcement
Sec. 15-6-40 Amendments
Sec. 15-6-50 Penalty

Article 7 International Mechanical Code
Sec. 15-7-10 Adoption
Sec. 15-7-20 Copy on file
Sec. 15-7-30 Amendments
Sec. 15-7-40 Penalty
Sec. 15-7-50 Appeals

Article 8 International Fuel Gas Code
Sec. 15-8-10 Adoption
Sec. 15-8-20 Copy on file
Sec. 15-8-30 Amendments
Sec. 15-8-40 Penalty
Sec. 15-8-50 Appeals

Article 9 Energy Codes
Sec. 15-9-10 Adoption
Sec. 15-9-20 Copy on File
Sec. 15-9-30 Amendments
Sec. 15-9-40 Telluride Energy Mitigation Program (TEMP)
Sec. 15-9-50 Materials Recovery Program
Sec. 15-9-60 Application of Energy Codes
Sec. 15-9-70 Penalty
Sec. 15-9-80 Appeals

Article 10 International Property Maintenance Code
Sec. 15-10-10 Adoption
Sec. 15-10-20 Copy on file
Sec. 15-10-30 Penalty
Sec. 15-10-50 Appeals

Article 11 Construction Mitigation Plan
Sec. 15-11-10 Purposes
Sec. 15-11-20 Compliance with the Town of Telluride Construction Mitigation Plan Manual
Sec. 15-11-30 Fines and penalties

Article 12 Design Standards and Construction Specifications
Sec. 15-12-10 Authority
Sec. 15-12-20 Permit and construction conformance
Sec. 15-12-30 Appeals

Article 13 Engineering Review Costs
Sec. 15-13-10 Applicability
Sec. 15-13-20 Estimation and payment
Sec. 15-13-30 Refund or additional payment

Article 14 Public Improvements Reimbursement
Sec. 15-14-10 Policy
Sec. 15-14-20 Developer's responsibility
Sec. 15-14-30 Specifications of required improvements
Sec. 15-14-40 Amount subject to reimbursement
Sec. 15-14-50 Agreement required
Sec. 15-14-60 Collection and reimbursement
Sec. 15-14-70 Terms of agreement
Sec. 15-14-80 Fulfillment of contract
Sec. 15-14-90 Contract recordation

Article 15 Building Street Address Number
Sec. 15-15-10 Official Map
Sec. 15-15-20 Building street address numbers required
Sec. 15-15-30 Sign requirements
Sec. 15-15-40 Emergency information telephone stickers
Sec. 15-15-50 Maintenance
Sec. 15-15-60 Unlawful to deface number

Sec. 15-15-70 Penalties
Sec. 15-15-80 Appeals

Article 16 Board of Adjustment and Appeals

Sec. 15-16-10 Established
Sec. 15-16-20 Purpose
Sec. 15-16-30 Membership
Sec. 15-16-40 Appointment of alternates
Sec. 15-16-50 Powers and duties of alternates
Sec. 15-16-60 Terms; vacancies
Sec. 15-16-70 Chairperson and Vice Chairperson
Sec. 15-16-80 Clerk
Sec. 15-16-90 Duties of Building Official and Planning Director
Sec. 15-16-100 Expenses
Sec. 15-16-110 Jurisdiction and limitation of authority
Sec. 15-16-120 Quorum
Sec. 15-16-130 Majority vote
Sec. 15-16-140 Rules and regulations
Sec. 15-16-150 Minutes; open meetings
Sec. 15-16-160 Findings and decisions
Sec. 15-16-170 Legal conformance
Sec. 15-16-180 Meeting call
Sec. 15-16-190 Alternate materials and methods; code interpretation
Sec. 15-16-200 Duties
Sec. 15-16-210 Appeal
Sec. 15-16-220 Appeal form
Sec. 15-16-230 Authority; deadline

Appendix

Appendix 15-A National Trust for Historic Preservation Amendments to the IEBC

ARTICLE 1

International Building Code

Sec. 15-1-10. Adoption.

The Town of Telluride ("Town") hereby adopts and incorporates herein by reference as the building code of the Town the International Building Code, 2003 Edition ("IBC"), published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401, except as otherwise provided by amendment or deletion as contained in Section 15.04.020 of this Chapter and the following Appendices: Appendix E, Supplementary Accessibility Requirements; Appendix G, Flood Resistant Construction; Appendix J, Grading. Appendices not listed herein are not incorporated or adopted. (Prior code 15.04.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-1-20. Copy on file.

At least one (1) copy of the IBC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IBC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Prior code 15.04.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-1-30. Amendments.

The IBC as adopted by the Town at §15-1-10 is hereby amended at the stated Sections as follows:

(1) Section 101.4.1 "Electrical" is amended to delete the current language requiring compliance with the ICC Electric Code and state:

"The provisions of the adopted National Electrical Code (NEC) shall apply."

(2) Chapter 27. Delete Chapter 27.

(3) Section 101.4.4 "Plumbing" is amended to delete the current language requiring compliance with the ICC Plumbing Code and state:

"The provisions of the adopted Uniform Plumbing Code (UPC) or the International Plumbing Code (IPC) shall apply. Septic systems shall not be allowed within the Town."

(4) Section 101.4.6 "Fire Prevention" is amended to add a new last sentence that states:

"All structures constructed within Telluride Fire Protection District shall comply with the provisions of the Fire District. (See Resolution No. 2005-01, Telluride Fire Protection District, San Miguel County, Colorado)."

(5) Section 101.4.7 "Energy Efficiency" is amended to state:

"The provisions of the most current versions of the Energy Codes in Article 9 shall be followed."

(6) Section 102.6 "Existing structures" is amended to read as follows:

"Section 102.6. Existing structures.

"The legal occupancy of any structure existing on the date of adoption of the IBC shall be permitted to continue without change, except as is specifically covered in this IBC, the International Existing Building Code or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public."

(7) Section 103.3 "Deputies" is amended to include a replacement for the last sentence that reads:

"For the maintenance of existing buildings, see the International Existing Building Code."

(8) Section 104.6 "Right of Entry" is amended to include a replacement for the last sentence that reads:

"If entry is refused, or no person having charge or control over the building or premises can be located, the Building Official shall obtain a warrant from the Telluride Municipal Court authorizing the Building Official to make entry into the building or premises."

(9) Section 104.8 "Liability" is amended to include the following sentences at the end of the Section that read:

"The Building Official shall be entitled to all immunities and limitations as provided to public employees under the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S. The IBC shall not be construed to relieve or lessen the responsibility of any person owning, operating or controlling any building or structure for any damage to persons or property caused by defects on or in such premises, nor shall the IBC enforcement agency, any employee thereof or the Town of Telluride be held as assuming any such responsibility or liability by reason of the adoption of the IBC or by the exercise of inspections authorized and carried out thereunder or by the issuance of any permits or certificates issued pursuant to the IBC."

(10) Section 105.5 "Expiration" is hereby amended by the addition of the following provisions at the end of the existing text:

"In the event a permit shall expire, the following provisions shall apply:

"(a) All below-grade excavation done in anticipation of construction shall be filled and made safe within thirty (30) days.

"(b) Where construction has advanced beyond excavation, all foundation work and above-grade construction shall be secured against the weather to the satisfaction of the Building Official, and the construction site shall be otherwise returned to that condition as existed prior to the issuance of the permit.

"(c) Any fences, railings, canopies or other protective barriers placed in the public right-of-way shall be removed and all hazardous conditions eliminated therefrom within ten (10) days after expiration of the permit."

(11) Section 106.3.3 "Phased approval" is amended to read as follows:

"**Section 106.3.3. Phased approval**.

"The Building Official is authorized to issue a preliminary permit or a permit for the construction of foundations or any other part of the building or structure only after the documents for the whole building or structure have been submitted and approved by the appropriate referral agencies and the Building Official is satisfied that the documents for the whole building or structure are adequate for plan review. The holder of the preliminary permit shall proceed at the holder's own risk without assurance that a permit for the entire structure will be granted."

(12) Section 108.2 "Schedule of permit fees" shall be amended to read as follows:

"**Section 108.2. Schedule of permit fees**.

"The fee schedule for all permit related fees shall be as adopted by resolution of the Telluride Town Council as deemed necessary. A plan review fee shall be paid at the time of submitting documents for permit."

(13) Section 109.3.5 "Lath and gypsum board inspection" is amended to delete the "Exception" section.

(14) Section 109.3.8 "Other inspections" is amended to read, after the last sentence:

"Special Inspectors or Inspection Agencies must be approved in writing by the Building Official. All elevators must have plans approved prior to construction and receive a Certificate of Compliance by a qualified elevator inspector (determined by Building Official) after completion of the installation. All elevators in other than single-family residences must be inspected yearly by a qualified elevator inspector (per Elevator and Escalator Certification Act as provided for in Sections 9-5.5-101, et seq., C.R.S.).

(15) Add a new Section 109.7 "Reinspections" to read:

"**Section 109.7. Reinspections.**

"A reinspection fee, as established in the Town Council adopted fee schedule, may be assessed when an inspection is called for and the work is not complete, required corrections are not made, field copy of the approved plans is not readily available to the inspector, work is not accessible or for deviating from approved plans."

(16) Amend Section 110.1 "Use and occupancy" to add the following sentence to the end of that Section:

"Additions, remodeling and accessory use structures may receive a Work Complete Notice after a successful final inspection is completed."

(17) Section 110.3 "Temporary occupancy" is amended to delete the current language and state:

"**Section 110.3 Conditional occupancy**.

"The Building Official is authorized to issue a conditional certificate of occupancy before the completion of the entire work covered by the permit or conditions of approval, provided that the portions of the building shall be occupied safely. The conditional certificate of occupancy shall clearly state the portions of the building that may be occupied, the conditions that must be met, the financial guarantee amount to complete the work and the associated amount of such guarantee that will be lost over time as established by a Town Council-approved policy, and a time period during which the conditional certificate of occupancy is valid."

(18) Add a new Section 110.5 "Failure to clean" to read:

"**Section 110.5. Failure to clean**.

"Job Site. No Certificate of Occupancy (C.O.) shall be issued until the construction site for any building or structure has been cleared of debris and cleaned up to the satisfaction of Town of Telluride Staff. Staff may use discretion as to time and weather. The Town may also assess the contractor/owner/representative or assert a lien against subject property for said clean up. Public safety must be insured prior to C.O. at the discretion of the Building Official."

(19) Section 115 "Unsafe structures and equipment" is amended by the addition to the Section of the following:

a. At the end of Section 115.1 "Conditions":

"The requirements of Article 7, Division 7 of the Town of Telluride Land Use Code shall supersede all provisions

regarding removal of structures inconsistent with Article 7, Division 7 of the Town of Telluride Land Use Code."

b. At the end of Section 115.3, "Notice":

"The requirements of Article 7, Division 7 of the Town of Telluride Land Use Code shall supersede all provisions regarding removal of structures inconsistent with Article 7, Division 7 of the Town of Telluride Land Use Code."

(20) Section 1023.3 is amended by the addition to the section of the following:

"All entry ways, exits, walkways and parking spaces shall be located and/or constructed in such a manner so as to eliminate or minimize obstructions or potential injury caused by snow or ice shedding. The building official shall order the installation of corrective mechanisms, including coverings, deflectors or ice-melting devices, to mitigate snow and ice shedding."

(21) Amend Section 1503.4 "Roof drainage" by inserting the following new section after Section 1503.4.1:

"**Section 1503.4.2. Over public and private property**.

"Water, snow or ice draining from a roof shall not be allowed to flow or shed over or onto public or private property or rights of way or any other area deemed by the Building Official to be a safety hazard. The issuance of a building permit or certificate of occupancy shall be conditioned upon the installation of devices or measures necessary to minimize, if not eliminate such flows or shedding."

(22) Amend Section 1608.1 "General" to delete the current language and read:

"Roof snow loads shall be determined by the latest version of the Structural Engineer Association of Colorado "Snow Load Design Data for Colorado" or if unavailable by the Building Official, whichever is more restrictive."

(Prior code 15.04.020; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-1-40. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the Town, or cause the same to be done, contrary to or in violation of any of the provisions of the IBC. A violation of any of the provisions of this Chapter or the IBC shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) of the Municipal Code for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter or the IBC occurs or continues unabated after the time limit set for abatement of the violation. (Prior code 15.04.030; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-1-50. Appeals

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of the International Building Code or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals. (Ord. 1296 §1, 2008)

ARTICLE 2

International Residential Code

Sec. 15-2-10. Adoption.

There is hereby adopted and incorporated herein by reference as the residential code of the Town the International Residential Code, 2003 Edition ("IRC"), published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401, except as otherwise provided by amendment or deletion as contained in Section 15-2-20 of this Chapter, and including the following Appendices: (A) Sizing and Capacities of Gas piping; (B) Venting Systems; (C) Exit Terminals of Mechanical Systems; (E) Manufactured Housing Used As Dwellings; (G) Swimming Pools, Spas and Hot Tubs; (H) Patio Covers; and (J) Existing Buildings and Structures. (Prior code 15.05.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-2-20. Copy on file.

At least one (1) copy of the IRC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IRC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Prior code 15.05.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-2-30. Amendments.

The IRC as adopted by the Town at Section 15-2-10 is hereby amended at the following sections:

(1) Section R101.2 "Scope" is amended to add the following sentence to the end of the paragraph to read:

"The provisions of the International Residential Code for One- and Two-Family Dwellings shall also apply to all pre-built (manufactured) structures (one and two family) and the construction, alteration."

(2) Section R101.2 "Scope" is amended to add a new EXCEPTION, to read:

"**EXCEPTION**: Any prebuilt/manufactured structure must meet the roof snow load for the specific area of placement, or obtain approval for a snow mitigation plan by the Building Official."

(3) Section R106.3.3 "Phased approval" is amended to delete the current language and read:

"**Section R106.3.3. Phased approval**.

"The Building Official is authorized to issue a preliminary permit or a permit for the construction of foundations or any other part of the building or structure only after the documents for the whole building or structure have been submitted and approved by the appropriate referral agencies and the Building Official is satisfied that the documents for the whole building or structure are adequate for plan review. The holder of the preliminary or foundation permit shall proceed at the holder's own risk without assurance that a permit for the entire structure will be granted."

(4) Section R107 "Temporary structures and uses" is amended to delete the entire section.

(5) Section R108.2 "Schedule permit fees" is amended to delete the current language and read:

"**Section R108.2. Schedule permit fees**.

"On buildings, structures, electrical, gas piping, mechanical and plumbing systems or for any alterations requiring a permit, a

permit fee shall be required and paid. Permit Fees and all other fees will be derived from the fee schedule adopted by the Town Council from time to time. The permit fee schedule may be modified or re-created by the governing authority as deemed necessary. Additional inspections, reinspections and other fee costs are calculated as provided for in the Town Council adopted fee schedule. Should any change occur in construction valuation after the permit has been issued, a new permit must be issued with the correct valuation."

(6) Section R108.5 "Refunds" is amended to delete the current language and read:

"**Section R108.5. Refunds**.

"If the construction does not commence within one hundred twenty (120) days of the issue date on the permit and the owner decides to forego the project, a permit refund may be requested. The Building Official may refund up to 100% of the permit fee. (Plan Review fee is forfeit.)"

(7) Section R109.1.5 "Other inspections" is amended to add a new subsection to read:

"Special inspectors or inspection agencies must be approved in writing by the Building Official. The Building Official will ensure that all elevators and lifts must be inspected and certified by a qualified and certified elevator inspector in accordance with the Elevator and Escalator Certification Act as provided for in Sections 9-5.5-101, et seq., C.R.S."

(8) Add a new Section R109.5 "Reinspections" to read:

"**Section R109.5. Reinspections**.

"A reinspection fee may be assessed when an inspection is called for and the work is not complete, required corrections are not made, field copy of the approved plans is not readily available to the inspector, work is not accessible or for deviating from approved plans. The reinspection fee shall be as provided for in the Town Council adopted fee schedule."

(9) Section R110.1 "Use and occupancy" is amended to read:

"**R110.1 Use and occupancy**.

"Additions, remodeling and accessory use structures projects will receive a Work Complete Notice after a successful final inspection is completed."

(10) Section R110.4 "Temporary occupancy" is amended to delete the current language and to read:

"**Section R110.4. Conditional occupancy**.

"The Building Official is authorized to issue a conditional certificate of occupancy before the completion of the entire work covered by the permit or conditions of approval, provided that the portions of the building shall be occupied safely. The conditional certificate of occupancy shall clearly state the portions of the building that may be occupied, the conditions that must be met and a time period during which the conditional certificate of occupancy is valid."

(11) Sections R112.2.1 and R112.2.2 are both deleted.

(12) Section Table R301.2(1) shall read as follows:

"(a) Ground/Roof snow load: 75 lbs

"(b) Wind Speed: 70 mph, exposure B

"(c) Seismic design category: B

"(d) Weathering: Severe

"(e) Frost line depth: 48"

"(f) Termite: None to slight

"(g) Decay: None to slight

"(h) Winter design temp: -16°F

"(i) Ice shield underlayment required: Yes

"(j) Flood hazards: Refer to the Land Use Code

"(k) Air freezing index: 2000 [BF-freezing days per 100 yr]

"(l) Mean annual temp: 40°F"

(13) Section R301.2.2.2.1 "Weights of materials" is amended to change the first sentence to read:

"Average dead loads shall not exceed 15 psf for roofs/ceiling assemblies or 25 psf for floor assemblies, except as further limited by Section R301.2.2 unless the design is approved by a Colorado Registered Engineer."

(14) Section R303.3 "Bathrooms" is amended to delete the current language and to read:

"**Section R303.3. Bathrooms**.

"Bathrooms, water closet rooms, laundry rooms, kitchens and any room where moisture is present shall be provided with natural or artificial light and a mechanical ventilation system with minimum ventilation rates of 50 cfm for intermittent ventilation or 20 cfm for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside. A 'timer' shall be used for the switch for all exhaust fans. This applies to IBC 'moisture rooms' as well."

(15) Section R303.6 "Stairway illumination" is amended to add an EXCEPTION to read:

"**EXCEPTION**: Landscaping stairways."

(16) Section R310.2 "Window wells" is amended at the end of the first paragraph to read:

"The window well must be protected from snow or ice buildup, by either a roof or cover or by heating the base of the window well and providing a drain to remove the moisture to other than the domestic sewer. Further, if the window well is thirty (30) inches or more deep, a guardrail or approved (by Building Official) cover must be provided. The cover, if used, must be openable from below with no special knowledge and easy enough for a small child."

(17) Section R311.4.1 "Exit Door Required" is amended by the addition to the section the following:

"Exit doors shall be provided with protection to prevent ice and snow from shedding at the entry. All entry ways, exits, walkways and parking spaces shall be located and/or constructed in such a manner so as to eliminate or minimize obstructions or potential injury caused by snow or ice shedding. The Building Official may order the installation of corrective mechanisms, including coverings, deflectors or ice-melting devices, to mitigate snow and ice shedding."

(18) Section R311.4.3 "Landings at doors" to amend the EXCEPTION following the second paragraph by changing "seven and three-quarters (7¾) inches" to read "eight (8) inches."

(19) Section R311.5.3.1 "Riser height" is amended with the first sentence to read:

"The maximum riser height shall be eight (8) inches."

(20) Section R311.5.3.2 "Tread depth" is amended with the first sentence to read:

"The minimum tread depth shall be nine (9) inches."

Amend the fourth sentence to read:

"Winder treads shall have a minimum tread depth of nine (9) inches measured as above at a point twelve (12) inches from the side where the treads are narrower."

(21) Section R311.5.3.3 "Profile," EXCEPTION is amended to read:

"**EXCEPTION**: A nosing is not required if the tread depth is a minimum of ten (10) inches."

(22) Section R311.5.6.2 "Continuity" is amended with the first sentence to read:

"All required handrails for stairways shall be continuous along the full length of the flight, from a point directly above the top riser of the flight to a point anywhere on the lowest tread."

(23) Section R312.1 "Guards required" is amended to add to the section the following:

"Nonhabitable lofts must be provided with guards when fifty percent (50%) of the floor area is five (5) feet or greater in height. Any floor area less than three (3) feet in height is not to be calculated in determining floor areas of non-habitable lofts."

(24) Section R312.2 "Guard opening limitations" is amended to add to the Section the following:

"Cable, rope or similar type materials that do not maintain the rigidity necessary to meet the requirements of Section R312.2 and/or the load requirements of Table R301.5 are prohibited."

(25) Section R313.1.1 "Alterations, repairs and additions" is amended with the first sentence to read:

"When interior alterations, repairs or additions requiring a building permit or mechanical permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be provided with smoke alarms located as required for new buildings; the smoke alarms shall be interconnected and hard wired."

(26) Section R319.1 "Location required" is amended with the first sentence to read:

"The following locations shall require the use of an approved species and grade of lumber, pressure preservative treated in accordance with AWPA C1, C2, C3, C4, C9, C15, C18, C22, C23, C24, C28, P1, P2 and P3, or decay-resistant heartwood of redwood, black locust or cedars."

(27) Section R319.1 "Location required" is amended to add item #8 to read:

"Exterior decks are required to be constructed with pressure treated wood or wood of natural resistance to decay."

(28) Section R408.3 "Access" is amended by the deletion of the current language and the section to read:

"**Section R408.3. Access**.

"Access shall be provided to all under-floor spaces. Access openings through the floor shall be a minimum of eighteen (18) inches by twenty-four (24) inches. Openings through a perimeter wall shall be eighteen (18) inches by twenty-four (24) inches. When any portion of the through wall access is below grade, an area of not less than thirty-six (36) inches by thirty-six (36) inches shall be provided. The bottom of the areaway shall be below the threshold of the access opening. Through-wall access openings shall not be located under a door to the residence. See M1305.1.4 for access requirements where mechanical equipment is located under floors."

(29) Add a new Section R903.5.1 "Snow shed design" to read:

"**Section R903.5.1. Snow shed design**.

"Roofs shall be designed so that they do not shed ice and snow onto potentially occupied areas such as a walkway, stairway, alley, deck, pedestrian and vehicular exits from buildings or areas where there is a potential for personal injury or property damage and areas directly above or in front of gas utility or electric utility meters."

(30) Chapter 10 "Chimneys and fireplaces" is amended to add a new Section R1001.1.0 "Prohibition on solid fuel devices" to read:

"**Section R1001.1.0. Prohibition on solid fuel devices**.

"Section 15-7-40 of the Municipal Code prohibits and regulates solid fuel burning fireplaces, stoves or devices, which are not allowed in the Town of Telluride. Chapter 10 is left in the Municipal Code for all issues other than solid fuel burning, such as structural requirements for chimneys, etc."

(31) Chapter 11 "Energy efficiency" is amended to delete the current language and read:

"**Chapter 11. Energy efficiency**.

"The provisions of the most current versions of the Energy Codes in Article 9 shall be followed."

(32) Section M1201 "General" is amended to add Subsection M1201.3 "Permits" to read:

"**Subsection M1201.3. Permits**.

"Mechanical permit fees shall be derived from the attached fee schedule Mechanical Table 1-A."

(33) Section G2401 "General" is amended to add a new Subsection G2401.2 "Permits" to read:

"**Subsection G2401.2. Permits**.

"Installation of such fuel gas burning appliances shall require a permit. Permit fees will be as set forth in the Town Council adopted fee schedule."

(34) Section G2445 "Unvented room heaters" to delete entire section and replace with the following Section G2445.1 "General" to read:

"**Section G2445.1. General**.

"Unvented room heaters are prohibited."

(35) Section G2447.2 "Prohibited location" is amended to delete entire paragraph and add the following:

"Commercial cooking appliances must be installed pursuant to the manufacturer's specifications and requirements."

(36) Section AE101.1 "General" is amended to add to the section the following:

"If conflicts arise between State of Colorado standards and rules and Town of Telluride Code the more stringent standard shall be applied as determined and approved by the Building Official."

(Prior code 15.05.020; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-2-40. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the Town or cause the same to be done, contrary to or in violation of any of the provisions of the IRC. A violation of any of the provisions of this Chapter or the IRC shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter or the IRC occurs or continues unabated after the time limit set for abatement of the violation. (Prior code 15.05.030; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-2-50. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of the International Residential Code or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals. (Ord. 1296 §1, 2008)

ARTICLE 3

International Existing Building Code

Sec. 15-3-10. Adoption.

There is hereby adopted and incorporated herein by reference as the International Existing Building Code, 2003 Edition ("IEBC"), published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401, except as otherwise provided by amendment or deletion as contained in Section 15.12.020 of this Chapter. Appendices not listed herein are not incorporated or adopted. (Prior code 15.12.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-3-20. Copy on file.

At least one (1) copy of the IEBC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IEBC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Prior code 15.12.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-3-30. Amendments.

The IEBC as adopted by the Town at Section 15-1-10 is hereby amended at the following sections:

(1) All amendments listed for the IBC and IRC dealing with Administration (100's sections) and Town of Telluride specific sections shall apply to the IEBC.

(2) All amendments listed in Exhibit 15-A as prepared by the National Trust for Historic Preservation.

(Prior code 15.12.020; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-3-40. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to erect, construct, enlarge, alter, repair, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of the IEBC. A violation of any of the provisions of this Chapter or the IEBC shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter or the IEBC occurs or continues unabated after the time limit set for abatement of the violation. (Prior code 15.12.030; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-3-50. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of the International Existing Building Code or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals. (Ord. 1296 §1, 2008)

ARTICLE 4

National Electrical Code

Sec. 15-4-10. Adoption.

There is hereby adopted and incorporated herein by reference as the electrical code of the Town of Telluride, the National Electrical Code, 2011 Edition ("NEC"), published by the National Fire Protection Association, Inc., One Batterymarch Park, Qunicy, MA 02269. (Prior code 5.14.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008; Ord. 1301, 2009; Ord.1378, 2012)

Sec. 15-4-20. Copy on file.

At least one (1) copy of the NEC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The NEC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Prior code 15.14.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-4-30. Amendments.

(a) The National Electrical Code may be administered and inspections done by the Town of Mountain Village for the Town of Telluride as provided for in a reciprocal Intergovernmental Agreement.

(b) If the Town of Mountain Village is not administering or inspecting electrical installations per the requirements of the NEC, the Town of Telluride will designate the responsible entity for such inspections, and administration will be as provided for in the NEC.

(c) If the Town of Mountain Village is charged with the electrical inspections by the Town of Telluride, all fees and administrative procedures will originate with the Town of Mountain Village. The Building Official for the Town of Telluride will co-administer and assist with supervision of electrical inspections in the Town of Telluride. (Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-4-40. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any electrical system or equipment or cause or permit the same to be done contrary to or in violation of any of the provisions of this Code. Any person, firm or corporation violating any of the provisions of this Code shall constitute a misde-

meanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Code occurs or continues unabated after the time limit set for abatement of the violation. (Prior code 15.14.040; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-4-50. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of the National Electric Code or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals. (Ord. 1296 §1, 2008)

ARTICLE 5

International Plumbing Code

Sec. 15-5-10. Adoption.

There is hereby adopted and incorporated herein by reference as the plumbing code of the Town of Telluride, the International Plumbing Code, 2009 Edition ("IPC"), published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401. (Prior code 15.15.010; Ord. 1288, 2008; Ord. 1296, 2008; Ord. 1378, 2012)

Sec. 15-5-20. Copy on file.

At least one (1) copy of the IPC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IPC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Prior code 15.15.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008; Ord. 1378, 2012)

Sec. 15-5-30. Amendments.

(a) The IPC may be administered and inspections done by the Town of Mountain Village for the Town of Telluride as provided for in a reciprocal Intergovernmental Agreement.

(b) If the Town of Mountain Village is not administering or inspecting plumbing per the requirements of the IPC, the Town of Telluride will designate the responsible entity for such inspections, and administration will be as provided for in the IPC.

(c) If the Town of Mountain Village is charged with the plumbing inspections by the Town of Telluride, all fees and administrative procedures will originate with the Town of Mountain Village. The Building Official for the Town of Telluride will co-administer and assist with supervision of plumbing inspections in the Town of Telluride.

(d) Plumbing for hot tubs shall include a drain that is connected to the wastewater system on the property. Discharging via roof drains or other drains onto the street or into the groundwater is not acceptable and is illegal from a CWA standpoint. (Prior code 15.15.030; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008; Ord. 1378, 2012)

Sec. 15-5-40. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use or maintain any plumbing or permit the same to be done in violation of any of the provisions of the IPC. Any person, firm or corporation violating any of the provisions of this Chapter, the IPC shall be guilty of a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter, the IPC occurs or continues unabated after the time limit set for abatement of the

violation. (Prior code 15.15.040; Ord. 1288 §1, 2008; Ord. 1296 § 2008, Ord. 1378, 2012)

Sec. 15-5-50. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of the International Plumbing Code or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals. (Ord. 1296 §1, 2008)

ARTICLE 6

International Fire Code

Sec. 15-6-10. Adoption.

There is hereby adopted and incorporated herein by reference as the fire code of the Town the International Fire Code, 2009 Edition ("IFC"), published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401. (Prior code 15.16.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008, Ord. 1378, 2012)

Sec. 15-6-20. Copy on file.

At least one (1) copy of the IFC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IFC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Prior code 15.16.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-6-30. Delegation of enforcement.

Pursuant to Section 32-1-1002(1)(d), C.R.S., which authorizes the adoption and enforcement of fire codes by fire protection districts within the boundaries of a municipality upon the consent of the municipality, the Town Council does hereby empower and delegate to the Telluride Fire Protection District the adoption, administration and enforcement of the International Fire Code within the Town. Permits as required by the Fire District shall be as set forth in an adopted permit fee schedule. (Prior code 15.16.020; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-6-40. Amendments.

Amendments to IFC shall be as set forth in the Resolution Adopting and Amending the International Fire Code, 2003 Edition, Resolution No. 2005-01, which is hereby incorporated and adopted by reference. Any amendments to Resolution No. 2005-01 shall require the concurrence of the Town Council as evidenced by a companion resolution adopting the proposed amendments. (Prior code 15.16.030; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-6-50. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to occupy, erect, maintain, alter, repair, add to, replace, use or demolish any building, structure, facility or fixture, or produce, store or maintain any materials in the Town, or cause same to be done contrary to or in violation of any provisions of this Chapter or the IFC. A violation of any of the provisions of this Chapter or the IFC shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Code occurs or continues unabated after the time limit set for abatement of the violation. (Ord. 1296 §1, 2008; Ord. 1378, 2012)

ARTICLE 7

International Mechanical Code

Sec. 15-7-10. Adoption.

There is hereby adopted and incorporated herein by this reference as the mechanical code of the Town the International Mechanical Code, 2003 Edition ("IMC"), published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401. (Prior code 15.20.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-7-20. Copy on file.

At least one (1) copy of the IMC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IMC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Prior code 15.20.010; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-7-30. Amendments.

The IMC as adopted by the Town at Section 15-7-10 is hereby amended at the following sections:

(1) Section 106.5.2 "Fee schedule" is amended to state:

"**Section 106.5.2. Fee schedule**.

"Permit fees shall be derived from Town Council adopted fee schedule."

(2) Section 106.5.3 "Refunds" is amended to state:

"**Section 106.5.3. Refunds**.

"Eighty percent (80%) in the area where a jurisdiction is to specify the percentage of refund."

(3) Section 403.3.4 "Balancing" shall add after "approved method":

"Licensed/professional mechanical engineer approved by the Building Official/ report must be in writing and signed and wet-stamped by such approved engineer (all restaurants and food preparation areas shall have approved balance reports prior to occupancy)."

(4) Add a new Section 901.5 "Fireplaces allowed":

"**Section 901.5. Fireplaces Allowed**.

"Solid fuel burning fireplaces or devices are NOT allowed in the Town of Telluride."

(Prior code 15.20.020; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-7-40. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to erect, install, alter, repair, relocate, add to, replace, remove, use or maintain any plumbing, gas or drainage piping, or any mechanical device or fixture, or water or treating equipment in the Town or cause same to be done contrary to or in violation of any of the provisions of this Chapter or the IMC. Maintenance of equipment which was unlawful at the time it was installed and which would be unlawful under this Chapter or the IMC shall constitute a continuing violation of the IMC. A violation of any of the provisions of this Chapter or the IMC shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter or the IMC occurs or continues unabated after the time limit set for abate-

ment of the violation. (Prior code 15.20.030; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-7-50. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of the International Mechanical Code or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals in accordance with the provisions contained in Article 16 of this Chapter. (Ord. 1296 §1, 2008)

ARTICLE 8

International Fuel Gas Code

Sec. 15-8-10. Adoption.

There is hereby adopted and incorporated herein by reference the International Fuel Gas Code, 2003 Edition ("IFGC"), published by the International Code Council Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401. (Ord. 1296 §1, 2008)

Sec. 15-8-20. Copy on file.

At least one (1) copy of the IFGC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IFGC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Ord. 1296 §1, 2008)

Sec. 15-8-30. Amendments.

The IFGC as adopted by the Town at Section 15-8-10 is hereby amended at the following sections.

(1) Section 106.5.2 "Fee schedule" is amended to add to section the following:

"Permit fees will be as set forth in the Town Council adopted fee schedule."

(2) Section 106.5.3 "Fee refunds" is amended to insert:

"Eighty percent (80%)" in the area where a jurisdiction is to specify the percentage of fee refund.

(3) Section 303.2 "Prohibited locations" is amended to delete #3 and #4 EXCEPTIONS regarding unvented room heaters, which are prohibited in the Town.

(4) Section 621 "Unvented room heaters" is amended to delete entire section because unvented room heaters are prohibited in the Town.

(5) Adopt the following appendices of the IFGC:

a. Appendix A: Sizing and capacities of gas piping;

b. Appendix C: Exit terminals of mechanical draft and direct vent venting systems. (Ord. 1296 §1, 2008)

Sec. 15-8-40. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to erect, construct, enlarge, alter, repair, move, remove, equip, use or maintain any gas lines or mechanical devices in the Town, or cause the same to be done, contrary to or in violation of any of the provisions of this Chapter or the IFGC. A violation of any of the provisions of this Chapter or the IFGC shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter or the IFGC occurs or continues unabated after the time limit set for abatement of the violation. (Ord. 1296 §1, 2008)

Sec. 15-8-50. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of the International Fuel Gas Code or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals in accordance with the provisions contained in Article 16 of this Chapter. (Ord. 1296 §1, 2008)

ARTICLE 9

Energy Codes

Sec. 15-9-10. Adoption.

The Town of Telluride ("Town") hereby adopts and incorporates herein by reference as the energy code of the Town the International Energy Conservation Code, 2009 Edition ("IECC"), published by the International Code Council, Inc., 5203 Leesburg Pike. Suite 708, Falls Church, Virginia 22041-3401, except as otherwise provided by amendment or deletion as contained in Section 15-1-30 of this Chapter. (Prior code 15.32.010; Ord. 1236 §1, 2005; Ord. 1296 §1, 2008; Ord. 1331, 2010)

Sec. 15-9-20. Copy on File.

At least one (1) copy of the IECC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IECC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Prior code 15.32.020; Ord. 1288 §1, 2008; Ord. 1296 §1 2008; Ord. 1331, 2010)

Sec. 15-9-30. Amendments.

The IECC as adopted by the Town at §15-9-10 is hereby amended as follows:

(1) **Alternative Approaches to Energy Efficiency.** A project may also propose an alternative to meeting the IECC by attaining:

a. Energy Star certification

b. Leadership in Energy and Environmental Design certification that is designed to the "Silver" level or equivalent rating.

c. Other nationally recognized Green Building certification as approved by the Building Official that is equal to or better than the requirements of the IECC or one of the other two recognized programs listed above.

(2) Chapter 1 of the IECC, "Administration" is adopted in full with the following amendments:

a. Section 101.4.2, "Historic Buildings" shall be amended to require energy efficient measures be installed in historic buildings in accordance with the IECC by including the following language at the end of the last sentence: "…only to the extent that such energy efficiency measure would be in conflict with the historic and architectural provisions of the Telluride Land Use Code's Historic Preservation Overlay District as outlined in Article 7 o the Land Use Code, including but not limited to the Design Guidelines for Building in Telluride.

b. 101.4.3, "Exception 3" shall be amended to include the following language at the end of the exception "…provided such cavity is insulated to the require R-value as required by the provisions of this code to the extent practicable".

(3) Chapter 2 of the IECC, "Definitions" is adopted in its entirety without amendment.

(4) Chapters 3, 4, 5 and 6, "Climate Zones", "Residential Energy Efficiency", "Commercial Energy Efficiency" and

"Referenced Standards", respectively, are not adopted, and are entirely replaced by the following energy efficiency and mitigation requirements:

a. **Insulation.**

i. Development shall have insulation values and any required ratings as shown in Table 15-1.

ii. The R-values provided in Table 15-1 are the total R-values of all materials in a given assembly, with the R-values of assembly materials determined by the Building Official based on an administratively adopted Official Telluride R-value Table, which may be amended from time-to-time as necessary. The R-values of different materials are added together including air films, air spaces and building materials.

iii. The R-value shall be reduced by the effects of thermal bridging through framing by multiplying the R-value of ceilings at the depth of the framing members by .94 and the wall by .87.

iv. Formaldehyde-free insulation shall be installed or, if such insulation is not available, low formaldehyde insulation may be substituted at the discretion of the Building Official.

v. Recessed can lights are allowed in ceiling-roof assemblies only if the required R-value of insulation can be met between the top of the fixture and the roof decking material.

vi. Venting is allowed through the roof-ceiling assembly provided the required R-value for the assembly is maintained.

vii. Three stud corners on exterior walls shall be insulated, with evidence of such documented by dated digital photos that are provided to the Building Official.

viii. Recessed step lights are not permitted in exterior building walls except where the required R-value is met for the wall assembly.

ix. When spray foam insulation is used, wall or roof assemblies that have an exterior surface shall only use a closed-cell spray foam insulation to prevent rot. Other assemblies that do not have an exterior surface, or for re-insulating existing structures where there is no overall removal of drywall, open cell spray foam insulation may be used.

See Table 15-1 next page

Table 15-1. Required Insulation Values

BUILDING COMPONENT	Required Insulation Value	Required Total Value
EXTERIOR WALLS, INCLUDING RIM JOISTS AND KNEE WALLS (WITH INSULATION OF THE KNEE WALL). ENCAPSULATION ON ALL SIX (6) SIDES OF THE ENCLOSURE.	R 21	R24
EXTERIOR WINDOWS (IN WALLS, DOORS, TRANSOMS AND SIDELIGHTS), EXLCUDING SKYLIGHTS IN ROOF ASSEMBLIES	Energy Star rated with U-factor of 0.35 or lower and air leakage of 0.3 cfm or less.	
SKYLIGHTS	U-factor of 0.60 (2001 NFRC rated at 20 degrees), or U-factor of 0.45 (RES 97 rated at 90 degrees).	
SKYLIGHT SHAFTS, KNEE WALLS AND OTHER WALLS CEILING-ROOF ASSEMBLIES	Walls in roof assemblies shall be insulated to the same level as an exterior wall.	
EXTERIOR AND GARAGE DOORS	Energy Star Rated with R-value of 2.86 or more.	
CEILINGS OR RAFTERS	R 49 R38 if energy heel trusses are used and insulations extends over top plates. Energy heels on all trusses: 12" min. when using fiberglass or cellulose; 7" min. with spray foam	
WALLS TO GARAGE OR UNHEATED BUFFER SPACES	R 19	R 21
HEATED GARAGES WALLS	Same as exterior walls.	
HEATED BASEMENT WALLS	R 19	
FLOORS OVER UNHEATED SPACES	R 30	
FLOORS OVER UNVENTED SPACES WITH INSULATED WALLS	None	
CRAWL SPACE WALLS (UNVENTED, WITH A TIGHT FITTING GROUND VAPOR BARRIER AND CONSTRUCTED AS CONDITIONED SPACE)	R 21 permanently affixed to the walls.	
CANTILEVER FLOORS	R 38	R 40
SLABS IN HEATED AREAS (INSULATION UNDER ENTIRE SLAB, SLAB EDGE PERIMETER.).	R 7.5	
HEAT IN THE INTERIOR OR EXTERIOR, ON-EARTH SLAB (INSULATION UNDER ENTIRE SLAB, SLAB EDGE PERIMETER.	R 10	
EXPOSED SLAB EDGES (FOUNDATION INSULATION AND SLAB INSULATION WHERE REQUIRED SHALL COVER ALL SLAB EDGES).	R 7.5- R 10	
SLABS IN UNHEATED AREAS	NONE	
WATER LINES IN UNCONDITIONED, VENTED SPACE	Insulate water lines shall be kept from freezing, except for floor over insulated basements.	
HOT WATER PIPING (DOMESTIC AND HEATING)	R-6	
HOT WATER HEATER	Insulating blanket that covers entire water tank fastened with appropriate tape.	
FURNACE DUCTS IN AN UNCONDITIONED SPACE	R 8	
FURNACE DUCTS WITHIN WALLS OR CHASES OF A CONDITIONED SPACE	None	
SOLID WOOD OR ENGINEERED HEADERS	R-10 wherever possible	
STEEL HEADER	R-10 with insulation provided on both the exterior and/or the interior sides of the steel if possible to maintain a continuous thermal barrier.	
BATH TUBS AND SHOWER ENCLOSURES	Insulation shall be installed in any exterior wall or floor as prescribed above prior to installing a tub, shower pan or backer boards.	
SPAS (HOT TUBS)	Outdoor spas shall be a fully insulated enclosure. Tight fitting covers shall be provided with insulated to a minimum of R 12.	

b. **Air Infiltration and Water Barrier.**

i. Air infiltration into the building envelope shall be minimized by prescriptive air sealing as outlined in this section (b). All exterior joints in the building envelope shall be caulked, gasketed, weather-stripped, or otherwise sealed in a manner as approved by the Building Official.

ii. For blown-in cellulose or fiberglass insulation, all exterior wall or ceiling outlet or light receptacle penetrations shall be gasketed.

iii. Foam sill sealer shall be installed beneath the sill plates.

iv. Attached garages must be isolated from the dwelling with the following air-sealing practices:

1. A tightly-sealed, gasketed door installed in the common wall between the garage and conditioned spaces.

2. A continuous air barrier between walls and ceilings separating the garage space from the conditioned living spaces.

3. Required fire proofing.

v. A breathable water barrier shall be installed on the exterior sheathing after the required caulking, gasketing or weather stripping have been inspected by the Building Official, and prior to the installation of any exterior finish materials.

vi. Exposed earth in crawl spaces must be covered with a continuous vapor retarder with overlapping joints and the edges sealed with tape, mastic or other method approved by the Building Official.

vii. Openings into unconditioned spaces (attics, crawl spaces, etc.) shall be fully sealed.

viii. The space in between the door or window jamb and the rough opening shall be sealed with a spray foam sealant or other method approved by the building official. Stuffing insulation in such spaces is expressly prohibited.

ix. Blower door test that is administered by either the Town or a qualified consultant. Building envelope air tightness and insulation installation shall be considered acceptable when tested air leakage is less than 0.35 air changes per hour (ACH) when tested with a blower door at a pressure of 33.5 psf (50 Pa). Any flood vents shall have a temporary cover placed over the vent during the required blower door test.

c. **Mechanical Systems**

i. Snow/ice melt or heat tracing systems shall meet the following requirements:

1. Electric resistance snow/ice melt systems are prohibited except for the heat tracing of gutters and associated downspouts.

2. Boilers shall be sealed combustion and have a minimum efficiency of 90% or greater AFUE.

3. Snow/ice melt systems (except roof or gutter heat tracing) shall also meet the Energy Mitigation Program requirements in Section 15-9-40.

4. Snow/ice melt systems shall include automatic controls capable of shutting off the system when the pavement temperature is above 50 deg F, and no precipitation is falling and an automatic or manual control that will allow shutoff when the outdoor temperature is above 40 deg F.

5. Roofs should be designed to not need electric under-layment mat heating.

d. **Heating/Cooling System shall be designed as follows:**

i. Duct systems shall be air tight with duct junctions sealed by appropriate, professional tape and/or other industry accepted sealants (mastics, gaskets, etc.). A duct system shall be deemed air tight if it passes a duct blaster test that is administered by either the Town or by a private consultant.

ii. No conditioning ducts shall be constructed in an exterior wall.

iii. Ducts shall be designed and constructed with return air ducts <u>without</u> any panned framing cavities, which are prohibited.

iv. Systems shall be sized, designed and installed according to ACCA Manual D or equivalent as determined by the Building Official.

v. Systems shall be sized according to heating and cooling loads calculated using the latest versions of ACCA Manuals J and S, ASHRAE 2001 Handbook of Fundamentals, or an equivalent procedure approved by the Building Official. This requirement shall also apply to additions and alterations where new HVAC equipment is installed.

vi. Systems shall be designed by a certified Mechanical Engineer for

single family residential structures greater than 3,600 sq. ft. of gross floor area including basement space, and for all commercial, multi-family, lodging or mixed use projects in the Town.

vii. Heating systems shall have a gas furnaces and gas boilers that are sealed combustion with a minimum efficiency of 90% or greater AFUE.

viii. Systems with multi-boilers shall be designed and constructed with staging device(s) and outdoor reset.

ix. Systems shall have programmable, digital thermostats provided.

x. Cooling systems shall have air conditioners with a minimum SEER rating of 15.0.

xi. Have any source heat pumps with a minimum SEER rating of 14.0.

xii. Heating systems with any ground source heat pumps shall have a minimum SEER rating of 11.5.

xiii. Electric resistance heating in living space is prohibited except for (1) the replacement of an existing system that is not subject to meeting the requirements of the Energy Code as provided for in Section 15-9-20(b); or (b) for heating small spaces less than 100 sq. ft.. If an electric hot water heater is allowed to be replaced pursuant to Section 15-9-209(b), such replacement water heater shall have a minimum Energy Factor of .93.

e. **Ventilation Systems**

i. Required bath and laundry ventilation shall include a timer or motion sensor switch.

ii. Kitchen ranges shall require a vent hood that is ducted to the exterior of the building unless the Building Official grants an exemption due to unique site circumstances that create a hardship in providing this exterior venting.

iii. For development that contains 2,500 or more sq. ft. of gross floor area (as defined by the Telluride Land Use Code), an Energy Recovery Ventilator ("ERV") or Heat Recovery Ventilator ("HRV") is required to be installed.

iv. Exhaust fans with 400 cfm or greater shall be supplied with a make up air system or other adequate alternative system as determined by the Building Official to ensure other building mechanical or energy systems are not compromised.

f. **Plumbing Systems**

i. Hot water line piping shall not be placed in an exterior wall to the extent practical. When not practical as determined by the Building Official, hot water piping may be placed in an exterior wall provided the required insulation R-value of the wall is provided in between the piping and the exterior of the wall.

ii. Low flow faucets:

1. Showerheads shall be fitted with aerators restricting flow to 2.0 gallons per minute ("gpm") or less.

2. Bathroom faucets shall be designed with either an automatic motion sensor; or be designed with a maximum flow rate of 2.0 gpm or less, or be fitted with aerators that restrict flow to 2.0 gpm or less.

3. Kitchen faucets shall be designed with either a flow rate of 2 gpm or be fitted with aerator, laminar flow device or spray device restricting flow to 2 gpm.

iii. Irrigation systems shall be installed with a moisture sensor and timer to control irrigation.

iv. Electric Hot water heaters shall have a minimum efficiency of 90% or greater AFUE (Electric hot water heaters are only allowed to replace existing electric hot water heaters and not in new constructions or remodels that install new hot water systems). Exception: Electric heaters that get their primary power from a renewable energy system.

v. Hot water recirculation systems shall be provided with a timer or an aquastat and manual on/off switch. Piping for recirculation systems shall be insulated as set forth in Table 15-1 above.

vi. Gas water heaters shall have a minimum energy factor of .60

vii. If a solar water heating system is <u>not</u> installed as a part of a project and solar access is available, insulated appropriate piping should be rough plumbed from the mechanical space to the southern portion of the ceiling-roof-assembly and an appropriate thermostat wire should also be rough wired parallel to such roughed in piping. If piping is roughed in, a plumbing and wiring plan that shows the route and terminus shall be placed on the wall of the mechanical space for future reference in installing a renewable energy system.

g. **Roofing Material**

i. All roofing shall be 30 year minimum.

h. **Pools and Spas (Hot Tubs)**

i. Exterior swimming pools are prohibited in Telluride unless otherwise approved by the Planning and Zoning Commission pursuant to the use permitted on review development review process contained in the Telluride Land Use Code.

ii. Pools, custom-built hot tubs, or factory-built portable spas shall also meet the Energy Mitigation Program requirements in Section 15-9-40.

iii. Pools, custom-built hot tubs, or factory-built portable spas shall be equipped with a vapor-retardant pool cover on or at the water surface. Pools/spas capable of being heated above 90 deg F must have a pool cover with minimum insulation value of R-18.

i. **Additional Standards**

i. **Cement.** All cement used within the Town shall be mixed with western coal fly ash, except such a mix is not required for exterior slabs.

ii. **Low Volatile Organic Compounds ("VOC").** The general contractor and the property owner shall sign the Homeowner VOC Awareness Checklist provided by the Town prior to the issuance of a certificate of occupancy for a project.

iii. **Energy Star Ratings.** Energy Star rated appliances, exhaust fans and light fixtures should be installed. It is highly recommended that no more than 20% of light fixtures shall be installed that only allow for a halogen bulb to be used.

iv. **Rough Wiring for Future System.** For projects that do not install a solar electric renewable energy system and solar access is available, rough wiring for a future system should be installed between the main electrical panel and the southern portion of the ceiling-roof-assembly.

v. **Home Energy Rating System ("HERS") Rating Requirement.** This section shall apply to all residential new construction, and to any residential addition of at least 1,000 square feet. In order to provide evidence of compliance with this Section, a HERS rating shall be submitted at the time of building permit application. A final HERS rating certificate, based upon field inspections and testing conducted during construction, shall be submitted prior to receiving a Certificate of Occupancy.

1. Residential building projects up to 2,500 square feet are required to achieve a minimum HERS Index of 80 or less, utilizing the Colorado Energy Star Home Energy Rating System, and.

2. Residential building projects 2,500 square feet or greater are required to achieve a minimum HERS Index of 70 points, or less.

vi. **Construction Waste** - All sites shall have at least 2 lockable bear-proof polycarts for (1) food items and (2) recyclables.

vii. **Renewable Energy -** 100% of the home's electricity use must be provided for with renewable energy, either produced on-site or purchased through a Green Power production program. Creative alternative options will be considered by the Building Department.

(Ord. 1288 §1, 2008; Ord. 1296 §1, 2008; Ord. 1331, 2010; Ord. 1372, 2012)

Sec. 15-9-40. Telluride Energy Mitigation Program (TEMP).

Exterior energy use, larger homes and heated garages represent a significant source of carbon generation in mountain communities. In addition, exterior energy use consumes excessive energy in comparison to a typical home that does not have heated exterior surfaces. Telluride therefore requires that certain exterior energy use and heated garages mitigate or offset these adverse impacts by either the provision of an on-site or an eligible off-site renewable energy system to offset the energy use as specified for the activity, or to make a payment in-lieu in accordance with the annual fee schedule adopted by the Town Council. This mitigation/offset program shall be called the Telluride Energy Mitigation Program ("TEMP").

(a) **Applicability.** The requirements of this section apply to outdoor pools, custom-built hot tubs, factory-built portable spas, snowmelt systems, and heated garages. Replacement of hot tubs and spas with more energy efficient factory-built portable models that meet the most recent ANSI standards shall be exempt from the mitigation requirements of TEMP. The requirements of this section also apply to single family residential construction as outlined in Section b below:

(b) **Energy Mitigation Requirement.** The energy consumed by the uses specified in Section 15-9-40(f) shall be mitigated on the site of the energy use requiring the offset to the extent practicable, off-site by an eligible renewable energy system, or by the payment of an in-lieu fee. The Town will also allow for energy mitigation by the installation of a renewable energy system on-site or off-site that provides for partial mitigation with the remaining mitigation to be met by the required fee.

(c) **Renewable Energy Systems**. The Town of Telluride accepts only the following renewable energy systems as providing offsets to exterior energy use:

(1) Solar hot water system
(2) Solar photovoltaic system
(3) Micro-hydro
(4) Other renewable energy systems as approved by the Planning and Building Department

(d) **Practicability of Installing a Renewable Energy System On-site.** In determining if it is practicable to install a renewable energy system, the Planning Department will consider several factors, such as: (1) the location of the affected property and solar access; (2) the size of the property and the ability to reasonably install a renewable energy system; (3) any historic rating of a structure on the property and the ability to obtain permission for necessary additions or alterations that enable the installation of an energy mitigation system pursuant to the applicable Land Use Code requirements, such as zoning requirements and the requirements of the Historic Preservation Overlay District; and (4) reasonable use of the affected property.

(e) **Legal Restriction Requiring Use and Maintenance.** A deed restriction or other legal instrument approved by the Town that requires the renewable energy system to be operational and generating power, and to be maintained or replaced for the life of the project shall be executed prior to issuing a building permit for the project. Renewable energy projects constructed with TEMP fees shall be maintained by the Town or other designated public entity (when on other than Town-owned land or facilities) for the life of the project that originated the fees.

(f) **Energy Use Table and Fees.** Energy use for the regulated activities shall be per Table 15-2, with such annual energy use used to determine the required on-site mitigation, off-site mitigation, or the mitigation fee:

Table 15-2: Annual Energy Use

Energy Use Type	Annual Energy Use
Snowmelt System	90,700 BTU/sq. ft.
Custom-built hot tub	281,000 BTU/sq. ft.
Factory-built portable spa*	2,800 kW
Pool	359,000 BTU/sq. ft.
Heated Garage	24,200 BTU/sq. ft.

*This value is based on an average standby energy use of 204.5 W/hr at 60 degrees Fahrenheit for portable, factory-built spas, as listed in the California Energy Commission's online Appliance Efficiency Database. This value has been converted to equivalent standby energy use at 40 degrees Fahrenheit, which is Telluride's annual average outdoor temperature. It is possible to substitute the energy use for a specific spa model tested to the most recent ANSI spa standard.

The Town may issue energy mitigation credit for a geothermal system or other system that recovers heat from other sources, provided an applicant provides a summary of the amount of carbon offset by the installation of a geothermal or other system versus a system as required by Article 9.

(g) **Payment in-lieu Fees.** Payment in-lieu fees for each use shall be developed based on the annual energy use shown in the preceding table based on a methodology approved by the Town. The Town Council has reviewed and approved the initial fees and associated methodology for calculating the fees concurrent with the consideration of the ordinance adopting the TEMP fees. The TEMP fees may be adjusted by the Town Council as needed by resolution to address changes in the variables or assumptions that go into calculating the TEMP fees.

(h) **Energy Code Review Fee.** An Energy Code Review Fee equal to twenty percent (20%) of the project's Building Permit Fee shall be paid prior to Building Permit issuance in order to cover the Town's administrative costs associated with verifying compliance with this Section and calculating the required TEMP Fees, if any. Energy Code Review Fees shall be required regardless of whether an owner elects to meet the applicable building efficiency standards, or pays a fee in-lieu.

(i) **Provision of Renewable Energy Mitigation System or Payment In-lieu Fee Collection**

(1) Prior to issuing a building permit for a project that is subject to the TEMP, the plans will provide for a renewable energy mitigation system that is designed to offset the energy used for the regulated activity, and/or the owner/developer will provide the required TEMP fees (Required mitigation can be met by both by a partial renewable energy system that provides some mitigation, with the remaining mitigation in the form of a payment in-lieu fee.

(2) Any required on-site renewable energy mitigation system shall be installed and fully operating in accordance with the Town's applicable codes prior to the issuance of any certificate of occupancy.

(3) TEMP fees will be collected by the Town of Telluride Planning and Building Department prior to Building Permit issuance. Collected fees shall be deposited to the Town's Energy Mitigation Program Fund.

(4) A building project will not be eligible to receive a Building Permit until the project owner has demonstrated that the required energy performance standards and/or on-site renewable energy generation requirements have been achieved, or that the Town has received payment of the in-lieu fee.

(j) **Management and Appropriation of TEMP Funds.** Fees collected and deposited into the TEMP account by the Planning and Building Department are to be managed by the Town Manager or its designated Town employee. Expenditures of TEMP funds shall be used for the following purposes:

(1) Planning, design, and implementation of renewable energy or energy efficiency generation projects within the Town of Telluride on:

i. Town projects, Town land or Town facilities.

ii. Outside of the Town on Town of Telluride on Town land or facilities within the Telluride Region as defined by the Master Plan.

iii. When no Town-owned land, projects or facilities are available, funds may be used to install a renewable energy system on other public facilities, land or buildings as approved by the Town Manager.

(2) Other renewable energy or energy efficiency projects as approved by the Town Council by resolution.

(Prior code 15.32.050; Ord. 1236 §3, 2005; Ord. 1296 §1, 2008; Ord. 1331, 2010; Ord. 1372, 2012)

Sec. 15-9-50. Materials Recovery Program.

The Materials Recovery Program ("MRP") is a voluntary program designed to encourage the recycling and recovery of construction and development materials. (Ord. 1331, 2010)

Sec. 15-9-60. Application of Energy Codes.

No building permit or certificate of occupancy for any new building or structure shall issue absent the compliance of the building or structure with the Prescriptive Energy Code and the Green Building Code, as applicable. (Ord. 1331, 2010)

Sec. 15-9-70 Penalty .

It shall be unlawful for any person, including an owner, occupant or builder, to erect, construct, occupy, maintain, alter, repair, add to, replace, use or demolish any building, structure, facility or fixture in the Town, or cause same to be done contrary to or in violation of any of the provisions of this Article. A violation of any of the provisions of this Article shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each

offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Article occurs or continues unabated after the time limit set for abatement of the violation. (Prior code 15.32.060; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-9-80. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of this Article shall be processed and heard by the Board of Adjustment and Appeals in accordance with the provisions contained in Article 16 of this Chapter. (Prior code 15.32.070; Ord. 1236 §4, 2005; Ord. 1296 §1. 2008)

Sec. 15-9-90. Review.

This Energy Code shall be reviewed for updates and improvements at least every 2 years. (Ord. 1331, 2010)

ARTICLE 10

International Property Maintenance Code

Sec. 15-10-10. Adoption.

There is hereby adopted and incorporated herein by reference the International Property Maintenance Code, 2003 Edition ("IPMC"), published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401. (Ord. 1296 §1, 2008)

Sec. 15-10-20. Copy on file.

At least one (1) copy of the IPMC, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The IPMC as finally adopted shall be available for sale to the public through the office of the Town Clerk. (Ord. 1296 §1, 2008)

Sec. 15-10-30. Penalty.

It shall be unlawful for any person, including an owner, occupant or builder, to erect, construct, enlarge, alter, repair, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Code. A violation of any of the provisions of the Code shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Code occurs or continues unabated after the time limit set for abatement of the violation. (Ord. 1296 §1, 2008)

Sec. 15-10-50. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of the International Property Management Code or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals. (Ord. 1296 §1, 2008)

ARTICLE 11

Construction Mitigation Plan

Sec. 15-11-10. Purposes.

The purposes of a Construction Mitigation Plan ("CMP") are to:

(1) Reduce air, water and other pollution caused by dust, dirt, silt, trash, construction debris and other materials that could migrate from a construction site;

(2) Reduce and mitigate adverse impacts to adjacent properties and Town rights-of-way; and

(3) Provide for revegetation of sites used in the construction process which are not otherwise revegetated as part of the construction project. The CMP and the requirements of this Chapter shall not supersede, replace, amend or modify State or Federal laws and regulations. (Ord. 1296 §1, 2008)

Sec. 15-11-20. Compliance with the Town of Telluride Construction Mitigation Plan Manual.

Construction and development shall comply with the requirements of the *Town Council adopted Town of Telluride Construction Mitigation Plan Manual* ("Manual"). The Town Council may amend this document from time to time through placing consideration of amendments to the Manual as an action item on the Town Council agenda. (Ord. 1296 §1, 2008)

Sec. 15-11-30. Fines and penalties.

It shall be unlawful for any person, including but not limited to an owner, occupant, builder, contractor or subcontractor to violate any of the provisions of this Chapter or of the approved CMP as required by the Manual. A violation of any of the provisions of this Chapter or the approved CMP shall constitute a misdemeanor, punishable upon conviction by a penalty as set forth in Section 1-4-10(a)(1) for each offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter or the CMP occurs or continues unabated after the time limit set for abatement of the violation. As well, the Town may seek an injunction requiring complete restoration of any area disturbed in violation of the requirements contained herein, or the approved CMP. The Town may also issue stop work orders, withhold any further permits for site development, and cease the processing of any site development applications related to the property, project or owner that violates provisions of this Chapter or the approved CMP. (Ord. 1296 §1, 2008)

ARTICLE 12

Design Standards and Construction Specifications

Sec. 15-12-10. Authority.

The Public Works Director or designee is hereby authorized to devise, implement and enforce design standards and construction specifications as he or she deems necessary and reasonable governing the construction and installation of public and private improvements and infrastructure within the Town, including, without limitation, streets and street access, sidewalks and other public ways, water, sewer and storm drainage systems and structures, parking areas and retaining structures. The design standards and construction specifications shall be used to guide and review subdivisions and planned unit development (PUD) planning and development approval. (Prior code 15.36.010; Ord. 1296 §1, 2008)

Sec. 15-12-20. Permit and construction conformance.

No subdivision or planned unit development (PUD) shall be approved, nor shall be eligible for construction, absent review and conformance with the design standards and construction specifications as authorized and implemented under this Chapter by the Public Works Director or designee. Additionally, all development and construction under an approved subdivision or planned unit development (PUD) plan shall conform to the design standards and construction specifications. Whenever any work is being done contrary to the design standards and construction specifications, the Public Works Director or designee or Building Official may order a cessation and correction of such work upon written notice. (Prior code 15.36.020; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-12-30. Appeals.

Any person aggrieved of a decision or interpretation of the Public Works Director or designee or Building Official concerning the application or enforcement of a design standard or construction specification, or any person requiring relief from a standard or specification due to practical difficulties or unnecessary hardship, may appeal to the Board of Adjustment and Appeals in accordance with the provisions contained in Article 16 of this Chapter. (Prior code 15.36.030; Ord. 1296 §1, 2008)

ARTICLE 13

Engineering Review Costs

Sec. 15-13-10. Applicability.

Any private project requiring review by the Public Works Director or designee shall be subject to the procedures set out in this Chapter. (Prior code 15.40.010; Ord. 1296 §1, 2008)

Sec. 15-13-20. Estimation and payment.

At anytime the Public Works Director or designee is called upon or required to conduct a review of a building, structure or development plan requiring a land use development approval, building permit or other authorization or approval by the Town, the Public Works Director or designee may estimate the cost for his or her review, or the review by some outside agency, company or person as selected by the Public Works Director or designee, to undertake same. The project or permit applicant shall pay the estimated cost for the review to the Town upon submission of the project or permit plans to the Town for review. In the event the final cost of the review should exceed the cost estimate, the applicant shall pay the difference to the Town prior to the issuance of any permit or approval. Any amount paid in excess of the actual cost of review shall be promptly refunded to the applicant. No plan shall receive approval, nor shall any permit issue, prior to full payment of the review fee as specified herein. Similarly, the Public Works Director or designee shall not undertake any review until the cost estimate as described hereinabove has been submitted to the Town by the applicant. (Prior code 15.40.020; Ord. 1296 §1, 2008)

Sec. 15-13-30. Refund or additional payment.

If the actual cost of engineering review are less than the estimated costs, any excess funds in the escrow account shall be returned to the project applicant. If the actual costs exceed the estimated costs, the project applicant shall pay the additional costs within thirty (30) days of submission of a bill for costs from the Town. After thirty (30) days, such additional costs shall be charged to the applicant at a rate of one and one-half percent (1.5%) per month. (Prior code 15.40.030; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

ARTICLE 14

Public Improvements Reimbursement

Sec. 15-14-10. Policy.

(a) The general policy of the Town is that development should pay its own way, and that the owners of undeveloped property benefited by installation of public improvements should generally contribute financially to the cost of such improvements upon development of their property. This policy is necessary to protect the taxpayers of the Town.

(b) The Town Council finds that reimbursement agreements are an efficient means of promoting private installation of minor public improvements, particularly for in-fill of residentially zoned areas within the Town, but that such agreements are inappropriate where a local or special improvement district is required because of the scale of the improvements to be installed or the

complexity of reimbursement provisions to be administered. Such agreements are not generally intended to be utilized where installation of the public improvements has been required as a condition of approval of a major subdivision, except with regard to costs of oversizing water or sewer mains. For these reasons, approval of any proposed reimbursement agreement shall be discretionary with the Town Council. (Prior code 15.44.010; Ord. 1296 §1, 2008)

Sec. 15-14-20. Developer's responsibility.

When a developer seeks to build in an area that is not serviced or insufficiently served by existing utility lines, improved roads or other public improvements, it is the responsibility of that developer to construct public improvements sufficient to service the new development that may occur in that area. (Prior code 15.44.020; Ord. 1296 §1, 2008)

Sec. 15-14-30. Specifications of required improvements.

In order to avoid duplication of services by developers, the first developer in an unserviced area shall consult with the Public Works Director prior to obtaining any permits for access, water or sewer service, excavation or construction. The Director shall determine the specifications for water and sewer service lines and mains, roads or other public improvements that must be installed by the developer. (Prior code 15.44.030; Ord. 1296 §1, 2008)

Sec. 15-14-40. Amount subject to reimbursement.

(a) Any proposed reimbursement agreement shall be first presented to the Public Works Director. The Director shall preliminarily determine what portion of the public improvement construction costs, if any, may be reimbursable. Engineering, legal and planning costs associated with the project shall also be eligible for reimbursement. The Director shall thereupon recommend to the Town Council what costs shall be reimbursed, if any, and shall also recommend a method of allocation of such costs.

(b) Reimbursable costs shall generally be determined by multiplying the average cost per linear foot of the entire public improvement, times the length of intervening properties benefited by the improvements and not located within the developer's property to be served by the improvements.

(c) Reimbursable costs shall be generally allocated to each benefited property by dividing its lot frontage along the improvement by the total benefited frontage, times the total eligible reimbursement cost. A different method of allocation or determination of reimbursable costs may be used in particular cases so as to most fairly allocate reimbursement costs according to the unique factual circumstances of property benefited by any particular improvement.

(d) Eligible reimbursement costs shall not include costs of public improvements otherwise required as a condition of approval of any major subdivision, except that the additional material costs of oversizing any water or sewer main not required to serve the subdivision may be eligible for reimbursement. (Prior code 15.44.040; Ord. 1296 §1, 2008)

Sec. 15-14-50. Agreement required.

Before the Town accepts the improvements for the unserviced area, the Town and the developer must execute the reimbursement agreement; otherwise the opportunity to obtain reimbursement shall be lost. (Prior code 15.44.050; Ord. 1296 §1, 2008)

Sec. 15-14-60. Collection and reimbursement.

(a) Any developer seeking reimbursement shall submit for approval to the Public Works Director full documentation of the actual costs of the improvements, including invoices, receipts and other pertinent documents. The Town Council may, but is not required to, then enter into a contract to collect approved amounts subject to reimbursement on behalf of the developer.

(b) Before any new permits are issued for development in the newly serviced area, including grading, excavation, access and building permits, the Town Manager or his or her designee shall require payment by each property owner of their allocated share of the amount subject to reimbursement, as provided for by the reimbursement contract. The Town Manager shall then remit each reimbursement to the original developer or successor within forty-five (45) days after receipt of payment. (Prior code 15.44.060; Ord. 1296 §1, 2008)

Sec. 15-14-70. Terms of agreement.

(a) The reimbursement contract shall identify the party to whom the Town shall remit reimbursements and shall provide for written notification by such party or any successor of their current address for reimbursement purposes. If the reimbursable party cannot be located after diligent search within a six-month period, the right to payment shall be forfeited.

(b) The agreement shall specify, at minimum, the following additional terms and conditions:

(1) Total reimbursable costs;

(2) Method of determining reimbursable costs;

(3) Properties subject to reimbursement obligations;

(4) Estimated reimbursement obligation of each affected property;

(5) Administrative setup charge; and

(6) A nonliability clause for failure or impossibility of collection efforts by the Town. (Prior code 15.44.070; Ord. 1296 §1, 2008)

Sec. 15-14-80. Fulfillment of contract.

The reimbursement contract is fulfilled when full build-out occurs in the newly serviced area, or within ten (10) years from the effective date of the reimbursement contract, whichever comes first. (Prior code 15.44.080; Ord. 1296 §1, 2008)

Sec. 15-14-90. Contract recordation.

The reimbursement contract shall be recorded in the office of the County Clerk and Recorder at the applicant's cost. (Prior code 15.44.090; Ord. 1296 §1, 2008)

ARTICLE 15

Building Street Address Number

Sec. 15-15-10. Official Map.

An address map entitled *Town of Telluride Official Address Map* ("Map") is hereby adopted as the official street address map of the Town. The Map shall be maintained and updated by the Building Department as new buildings are assigned an official street number address, or as existing structures are demolished, without further review or authorization by the Town Council. (Prior code 8.21.020; Ord. 1296 §1, 2008)

Sec. 15-15-20. Building street address numbers required.

All new buildings shall be required to have the street address number permanently displayed

according to Section 15-15-30 prior to the issuance of the Certificate of Occupancy. (Prior code 8.21.030; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-15-30. Sign requirements.

All existing and new structures shall permanently display the street address number assigned to the structure in accordance with the following design and location requirements, with the street address sign:

(1) A minimum of four (4) inches high;

(2) Placed on a contrasting background;

(3) Located adjacent to or above the main entry;

(4) Facing the primary street to which the structure is addressed;

(5) Readable from the street; and

(6) Placed a minimum of five (5) feet above adjacent grade. (Prior code 8.21.010; Ord. 1296 §1, 2008)

Sec. 15-15-40. Emergency information telephone stickers.

Owners or managers of all condominiums, motels, hotels, bed and breakfast accommodations, apartments and single-family dwellings used for short-term rental shall affix to each telephone in each lodging, dwelling or rental unit a sticker, entitled "Emergency Information," which contains the following completed information:

Emergency Information

(1) Name of accommodations;

(2) Phone number;

(3) Building address; and

(4) Room number.

(Prior code 8.21.040; Ord. 1296 §1, 2008)

Sec. 15-15-50. Maintenance.

All building street address numbers and telephone Emergency Information stickers shall be preserved and maintained in visible and legible condition. (Prior code 8.21.050; Ord. 1296 §1, 2008)

Sec. 15-15-60. Unlawful to deface number.

It is unlawful for any person to alter, deface, obscure or take down any street address number or Emergency Information sticker placed on any structure or telephone in accordance with this Section, except for repair or replacement of such number or sticker. (Prior code 8.21.060; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-15-70. Penalties.

Any person, upon conviction of a violation of any provisions of this Chapter, shall be subject to the maximum penalty as provided for in Paragraph 1-4-10(a)(1) of this Code. The person may also be enjoined from any further or continued violation of this Chapter. Each day during which violation of this Chapter shall continue shall constitute a separate and distinct offense under this Chapter. (Prior code 8.21.080; Ord. 1296 §1, 2008)

Sec. 15-15-80. Appeals.

Appeals from determinations or decisions made by the Building Official relative to the application, enforcement and interpretation of addressing requirements or the provisions of this Article shall be processed and heard by the Board of Adjustment and Appeals. (Ord. 1296 §1, 2008)

ARTICLE 16

Board of Adjustment and Appeals

Sec. 15-16-10. Established.

The Board of Adjustment and Appeals is hereby created by the Town Council, which Board

shall consist of five (5) members. The Board of Adjustment and Appeals shall be referred to in this Article as the "Board." (Prior code 15.50.010; Ord. 1296 §1, 2008)

Sec. 15-16-20. Purpose.

The Board shall have the duties as set forth in this Chapter and shall hear appeals resulting from interpretations, determinations or actions of the Building Official or other authorized official taken pursuant to the ordinances, codes and regulations as contained in this Chapter; excepting appeals regarding the enforcement or interpretation of the Fire Code which shall be heard by the Telluride Fire Protection District. (Prior code 15.50.020; Ord. 1296 §1, 2008)

Sec. 15-16-30. Membership.

The Board members shall be appointed by the Town Council. The Board shall consist of five (5) regular members and two (2) alternates. Each member shall be a qualified elector of the Town, and at the time of his or her appointment, shall have been a resident of the Town for at least six (6) months. If possible, the Town Council shall appoint one (1) member from the design or architectural profession, one (1) member from the Fire Protection District, one (1) member from the plumbing profession, one (1) member from the engineering profession and one (1) citizen at large. In the event that there is not a candidate willing to serve on the Board from any of the above-specified trades, the Council shall appoint any citizen(s) willing to serve. (Prior code 15.50.030; Ord. 1296 §1, 2008)

Sec. 15-16-40. Appointment of alternates.

There shall be appointed two (2) alternate members, preferably from the building trades, who shall serve and vote only when a regular member is absent, abstains or is disqualified. (Prior code 15.50.040; Ord. 1296 §1, 2008)

Sec. 15-16-50. Powers and duties of alternates.

The two (2) alternates shall attend all meetings and shall enter into all deliberations. Alternates shall not vote on matters before the Board unless there is an absence, abstention or disqualification of a regular member. In such event, the alternates representing their counterparts (building trade or citizen at large) shall vote. (Prior code 15.50.050; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-16-60. Terms; vacancies.

All Board members shall be appointed by majority vote of the Town Council. All appointments shall be for two-year terms staggered so that approximately one-half (½) of the terms expire each year. When a vacancy occurs prior to the end of the term, the Town Council shall fill such vacancy in the same manner as a regular appointment. (Prior code 15.50.060; Ord. 1296 §1, 2008)

Sec. 15-16-70. Chairperson and Vice Chairperson.

Members of the Board shall, at their first meeting after January 1 of each year, elect from among their number a Chairperson and Vice Chairperson to a term of one (1) year. (Prior code 15.50.080; Ord. 1296 §1, 2008)

Sec. 15-16-80. Clerk.

The Town Manager shall appoint a Clerk to the Board to record the minutes and orders thereof. (Prior code 15.50.090; Ord. 1296 §1, 2008)

Sec. 15-16-90. Duties of Building Official and Planning Director.

The Building Official shall be an ex officio, nonvoting member of the Board and shall sit on and advise the Board. The Planning Director shall provide information to the Board as requested. (Prior code 15.50.100; Ord. 1296 §1, 2008)

Sec. 15-16-100. Expenses.

In the performance of its duties, the Board may incur such expenses as are authorized by the Town Council, but members shall receive no compensation for their services. Any authorized expenses incurred by the Board in the furtherance of its duties under this Chapter shall be borne by the Town as approved by the Town Manager. (Prior code 15.50.110; Ord. 1296 §1, 2008)

Sec. 15-16-110. Jurisdiction and limitation of authority.

The Board shall not have original jurisdiction on any matter where such jurisdiction has been vested in the Building Official or Fire Marshal for the Telluride Fire Protection District. The Board shall have no authority regarding interpretations of the administrative provisions of any of the uniform codes adopted and incorporated into this Title 15, nor shall the Board be empowered to waive requirements or grant variances of any uniform code, regulation or municipal ordinance. (Prior code 15.50.120; Ord. 1296 §1, 2008)

Sec. 15-16-120. Quorum.

No business of the Board may be transacted in the absence of a quorum of at least three (3) members. (Prior code 15.50.130; Ord. 1296 §1, 2008)

Sec. 15-16-130. Majority vote.

(a) Any decision of the Board shall be made by a majority vote of those present, unless otherwise provided by this Section.

(b) The Board shall vote upon the granting of adjustments or variances of this Chapter or other matters set forth in this Article. The concurring vote of four (4) members is necessary to reverse any order, requirement, decision or determination of any administrative official, or to grant any appeal of a Building Official determination or Notice and Order.

(c) The Board, when considering matters under codes adopted in this Chapter, shall have at least three (3) of the four (4) Board members present. A simple majority is required for interpretation of said codes. (Prior code 15.50.140; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-16-140. Rules and regulations.

The Board shall adopt any rules necessary to transact the Board's business that are not inconsistent with the provisions of this Chapter. (Prior code 15.50.150; Ord. 1296 §1, 2008)

Sec. 15-16-150. Minutes; open meetings.

The Board shall keep official minutes of its hearings and other meetings, which shall be filed in the office of the Town Clerk; the files shall be of public record. All meetings shall be open and the public shall be permitted to attend and be heard on all matters. (Prior code 15.50.170; Ord. 1296 §1, 2008)

Sec. 15-16-160. Findings and decisions.

(a) The Board may recommend to the Town Council such new legislation as is consistent with the Board's findings and decisions.

(b) The Board shall notify in writing the enforcement officer and appellant of all decisions. (Prior code 15.50.180; Ord. 1296 §1, 2008)

Sec. 15-16-170. Legal conformance.

The Board shall act in strict accordance with all applicable laws of the State and ordinances of the Town and County. (Prior code 15.50.190; Ord. 1296 §1, 2008)

Sec. 15-16-180. Meeting call.

The Board shall meet at the call of the Chairperson or at the request of the Building Official. (Prior code 15.50.200; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-16-190. Alternate materials and methods; code interpretation.

(a) The Board shall determine the suitability of alternate materials and methods of construction and provide for reasonable interpretations of the provisions of this Chapter or the codes adopted in this Chapter. The Board may require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding use of alternate materials or methods of construction.

(b) The Board shall have the power to make building code interpretations or take actions as permitted by the codes adopted in this Chapter (Prior code 15.50.210; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-16-200. Duties.

The Board shall:

(1) Recommend minimum standards for all new building construction relative to fire standards which are equivalent to the standards prescribed by the International Fire Code, International Building Code, International Residential Code or the International Existing Building Code, collectively referred to as the "Adopted Codes," which are not addressed by the Adopted Codes;

(2) Recommend minimum standards for the prevention of fire and for the protection of life and property from fire and panic in all existing buildings which are equivalent to the standards prescribed by the Adopted Codes;

(3) Act as an appeals board for the determination of the suitability of alternate materials and types of construction and provide for reasonable interpretations of and grant variances from specific code requirements based on the approval of submitted alternates; and

(4) Act as an appeals board for the purposes of reviewing solid fuel burner noncompliance orders pursuant to Chapter 7, Article 4 of this Code. (Prior code 15.50.220; Ord. 1296 §1, 2008)

Sec. 15-16-210. Appeal.

(a) Any person or party in interest aggrieved of a decision or order of the Building Official made pursuant to this Title 15 shall be entitled to file an appeal before the Board. Appeals from an order or decision of the Building Official must be filed not more than fifteen (15) days from the date of the order or decision that prompted the appeal. All appeals shall be made in writing and filed with the Town Clerk accompanied by a fee as set forth in the Town Council adopted fee schedule. A fee may be refunded in whole or in part by the Board upon a finding of economic hardship, or should the Board sustain an appeal.

(b) All notices for appeal shall provide the following information.

(1) The name, address, telephone number and signature of the appellant and the address of the property, building or structure subject to the appeal.

(2) A brief statement of the ownership or other interest of the appellant in the property, building or structure subject of the appeal.

(3) A brief description in ordinary and concise language of the regulation, order, ordinance or determination giving rise to the appeal, the relief sought and any material facts or arguments supporting the appeal. All ordinances or regulations involved in any appeal shall be cited by chapter and section number, and any order or determination of the Building Official shall be cited by date and form (written or oral). A copy of any written order subject to appeal shall be attached to the notice of appeal.

(c) Upon receipt of a notice of appeal, the Town Clerk shall promptly forward same to the Board, with a copy to the Building Official, whereupon the Chairperson of the Board shall, as soon as practicable, set a time and date for a hearing thereon. Such date shall not be less than ten (10) days or more than sixty (60) days from the date the appeal was received by the Town Clerk.

(d) Written notice of the time, date and place for a hearing shall be given by the Town Clerk or Building Official either by causing a copy thereof to be delivered to the appellant, or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the notice of appeal. Notice of the hearing shall be given not less than ten (10) days prior to the hearing date. The notice shall include a brief description of the issues involved in the hearing and the location of the property subject thereto.

(e) A record of all hearings shall be made by an audio recording device. Only those matters as contained in the hearing notice shall be considered by the Board at the hearing. The burden of persuasion in all hearings shall be upon the appellant. The Board may within its discretion conduct a site visit to the property in question as part of any hearing. All persons wishing to provide testimony or information shall be afforded a reasonable opportunity to be heard. The Board may ask the Town Clerk to swear in persons wishing to testify. Board members who do not participate in a hearing, or who do not read the entire record of a proceeding or listen to an audio recording, shall not vote on or take part in a decision.

(f) Decisions of the Board should be made in writing and all decisions shall recite the findings upon which they are based. The Board may continue or recess a hearing or its deliberations to a later date if necessary for the entry of a decision. Upon the request of the appellant at the conclusion of a hearing, the Board shall reduce its decision to writing and deliver same by hand or mail to the appellant. The effective date of a decision shall be the date it is voted upon by the Board, or if made in writing, the date the decision is signed by the Chairperson. The Board shall proceed with reasonable dispatch to conclude any matter before it.

(g) The failure of any person to timely file an appeal in accordance with the provisions of this Title shall constitute a waiver of the right to a hearing and determination as provided herein.

(h) Enforcement of any contested notice or order of the Building Official shall be stayed pending an appeal as timely commenced in accordance with this Chapter, except for notices or orders necessary to prevent imminent injury to person or property as determined by the Town Manager upon the petition of the Building Official. Stays shall only become effective upon the proper filing of an appeal, including the payment of the required fee. (Prior code 15.50.240; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-16-220. Appeal form.

All appeals for the Board shall be in writing and on such form as may be provided by the Board. Every appeal shall indicate the specific code or other requirements that are adopted by this Chapter that are involved in the appeal, or what decision or order of the Building Official is contested or appealed, what relief from those provisions is being sought and the factual and legal grounds upon which the appeal is being made. (Prior code 15.50.250; Ord. 1288 §1, 2008; Ord. 1296 §1, 2008)

Sec. 15-16-230. Authority; deadline.

Decisions of the Board may be reviewed by the District Court of San Miguel County. Such appeal shall be filed not later than thirty (30) days from the final action taken by the Board. Such appeal may be taken by any person aggrieved or by the Town Council or by the Building Official when authorized by the Town Council. (Prior code 15.50.260; Ord. 1296 §1, 2008)

Appendix 15-A
National Trust for Historic Preservation Amendments to the IEBC

The following Historic Building Enhancements are hereby adopted and incorporated into the IEBC:

	Item/Source	Recommended Language
General		
1	Alternative/Historic Report (1)	A historic building undergoing repair, alteration or Change of Occupancy shall be investigated and evaluated. If it is intended that the building meet the requirements of this Chapter, a written Historic Report shall be prepared and filed with the Code Official by a registered design professional when such a report is necessary in the opinion of the Code Official. 1. Such report shall be in accordance with Chapter 1 and shall identify: a. Where compliance with provisions of other chapters would damage the contributing historic character or contributing historic features. b. Each required safety feature that is in compliance with the provisions of this Chapter. c. For those features proposed for retention but not in compliance with the provisions of this Chapter, how the intent of these provisions is complied with in providing an equivalent level of safety. d. If an automatic suppression system is to be installed, the type and extent of the proposed system. Exception: For purposes of compliance with this Section, NFPA 914 *Code for Fire Protection of Historic Structures* & NFPA 101 *Alternative Approaches to Life Safety* may be used for life safety features, provided these are documented in a report consistent with that described above. 2. For buildings in high seismic zones, the report shall include a structural evaluation describing, at minimum, a complete load path and other earthquake resistant features. 3. If the proposed project as documented in the report is not acceptable, the local Code Official will provide written comments and request review comments from the local or state historic preservation officer.
2	Tolerances, alternatives, equivalencies and modifications (2), (3)	1. The Code Official shall accept solutions established through the application of Tolerance Values, Alternatives, Equivalencies or Modifications that achieve an overall safety level equal to or exceeding that specified in the Code, provided that these are documented in the Historic Report. 2. Tolerance values are those within five percent (5%) variation of the prescriptive criteria that will have a de minimis impact on overall building safety and as required to achieve historic preservation objectives established in the Historic Report.
3	Alternative technologies (3)	Alarms, smoke and heat detection systems, annunciators, smoke control and modeling, exiting modeling and analysis and other technologies may be accepted by the jurisdiction when it can be shown or proven to provide equivalence to the requirements of the regular Code.
4	Liability (3)	Prevailing law regarding immunity of local officials is unaffected by the use and enforcement of this Code.
5	Review and appeals (3)	In order to provided for interpretation of the provisions of this Code and to hear appeals, the Historic Building Safety Board shall act as an appeal and review body to state and local agencies and any affected party.

	Item/Source	Recommended Language
Accessibility		
6	Accessibility (1)	The accessibility provisions related to alterations and changes of occupancy shall apply unless technically infeasible. Where compliance with the requirements for accessible routes, ramps, entrances or toilet facilities would threaten or destroy the historic significance of the building or facility, as determined by the Code Official or the state historic preservation officer, the alternative requirements provided shall be permitted.
Building Height and Area		
7	Building height (3)	The maximum height and number of stories of a historic building shall not be limited because of construction type, provided such height or number of stories does not exceed that of its historical design.
8	Building height – High-rise buildings (3)	Nonresidential and nonhazardous occupancy buildings over seventy-five (75) feet in height may be permitted with only the stories over seventy-five (75) feet provided with an automatic sprinkler system if: 1. The building construction type and the exits conform to the prevailing code; 2. A complete building fire alarm and annunciation system is installed; and 3. An area of separation is provided between floors where an automatic sprinkler system does not exist.
9	Building floor area (3), (7)	1. Regardless of the use or character of occupancy, the area of a one-story historical building shall not exceed fifteen thousand (15,000) square feet (1393.5 m2) unless such increase is otherwise permitted in the prevailing code. 2. Multi-story building, including basements and cellars: The allowable floor area for historic buildings shall be permitted to exceed the allowable areas specified in the prevailing code by twenty percent (20%). Exception: Historic buildings provided with an approved automatic sprinkler system may be unlimited in floor area without fire-resistive area separation walls.
10	Height and area for change to higher hazard category (1)	When a Change of Occupancy is made to a higher hazard category as shown in Table 912.5, heights and areas of building and structure shall comply with the requirement of Chapter 5 of the Building Code for the new occupancy classification. Exception: In other than Groups H, F-1 and S-1, in lieu of firewalls, use of fire barriers having a fire-resistance rating of not less that two (2) hours constructed in accordance with Section 706 of the prevailing code shall be permitted to meet area limitations in buildings protected throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 of the Fire Code.
Doors, Hardware, Windows		
11	Door dimensions (5)	Exit doors with two leaves less than thirty-two (32) inches in width may remain, provided that the total door width measures at least thirty-six (36) inches and both leaves are easily operable.
12	Door hardware (1), (4)	Existing or replica hardware is permitted, provided that no life safety hazard is created and the hardware meets the intent of ICC/ANSI A117.1 for operation without causing pinching, grasping or twisting. Existing or replica hardware may be modified or fixed in place to meet the intent.

	Item/Source	Recommended Language
Doors, Hardware, Windows (cont'd)		
13	Doors – paneled and wood (1), (4), (7), (8)	1. Historic paneled doors located in corridors required to have a one (1) hour fire rating may remain provided that: a. The doors are tight fitting; b. The building is equipped with an automatic sprinkler system; and c. A quick-response sprinkler head is located at each side of the door. If the automatic sprinkler system is not other wise required, an NFPA 13R or NFPA 13D system is permitted. 2. Alternative methods of establishing an approximate fire rating of twenty (20) minutes for the above doors may be approved by the Code Official in accordance with certifications provided by nationally recognized testing facilities.
14	Door swing (4), (7), (8)	The front or main exit doors need not swing in the direction of the path of exit travel, provided that other approved means of egress having sufficient capacity to serve the total occupant load are provided. Exception: Approval by the Code Official is required when the total occupant load is greater than fifty (50) persons.
15	Escape windows and doors (3), (7)	Basements in dwelling units and every sleeping room below the first floor shall have at least one (1) operable window or door approved for emergency escape which opens directly into a public street, public way, yard or exit court. Escape or rescue windows shall have a minimum clear area of 3.3 square feet (0.31 m2), a minimum width or height of eighteen (18) inches (457 mm) and be operable from the inside to provide a full, clear opening without the use of special tools. Exception: Approval by Code Official required for buildings undergoing a Change of Occupancy in all hazard categories.
16	Number of exits (single-exit buildings) (1)	Every story utilized for human occupancy on which there is a work area that includes exits or corridors shared by more than one (1) tenant within the work area shall be provided with the minimum number of exits based on the occupancy and the occupant load in accordance with the Building Code. In addition, the exits shall comply with Sections 605.3.1.1 and 605.3.1.2. 1. In Group A, B, E, F, M, U and S occupancies, a single exit is permitted in the story at the level of exit discharge when the occupant load of the story does not exceed fifty (50) and the exit access travel distance does not exceed seventy-five (75) feet (22,860 mm). 2. Group B, F-2 and S-2 occupancies not more than two (2) stories in height that are not greater than three thousand (3,000) square feet per floor (279 m^2), when the exit access travel distance does not exceed seventy-five (75) feet (22,860 mm): The minimum fire-resistance rating of the exit enclosure and of the opening protection shall be one (1) hour. 3. Open parking structures where vehicles are mechanically parked. 4. In buildings containing Group B, S-2 or M, the required building features in Table 605.3.1(1) shall be provided based upon the highest story occupied by the specific use group. 5. In buildings containing Group R-2 Apartment or Boarding Houses or R-3, the required building features in Table 605.3.1.1(2) shall be provided based upon the highest story occupied by the specific use group. 6. In Group R-2, H-4, H-5 and I occupancies, rooming houses and child care centers, a single exit is permitted in a one-story building with a maximum occupant load of ten (10) and the exit access travel distance does not exceed seventy-five (75) feet (22,860 mm).

	Item/Source	Recommended Language
Doors, Hardware, Windows (cont'd)		
16	Number of exits (single-exit buildings) (1) (cont'd)	7. In buildings of Group R-2 occupancy that are equipped throughout with an automatic fire sprinkler system, a single exit shall be permitted from a basement or story below grade if every dwelling unit on that floor is equipped with an approved window providing a clear opening of at least four (4) square feet (.37 m^2) in area, a minimum dimension of eighteen (18) inches (457 mm) in height with a bottom opening no higher than four (4) feet six (6) inches (1,372 mm) in a basement. 8. In buildings of Group R-3 occupancy equipped throughout with an automatic fire sprinkler system, only one (1) exit shall be required from basements or stories below grade.
17	Exit signs (7), (8)	Where the exit sign or egress path marking location would damage the historic character of the building, alternative exit signs or egress path markings are permitted with approval of the Code Official. Custom designed exit signs meeting the intent of the prevailing code shall be permitted.
18	Escape ladder – residential occupancies (3), (7)	Exit ladder devices that are permanently installed, fixed, folding, retractable or hinged ladders manufactured as a means of emergency egress may be used in areas serving an occupant load of less than six (6) persons on the second or third stories. Unless approved specifically for a longer length, the use shall be limited to twenty-five (25) feet (7,620 mm) in length. Exception: Approval by Code Official required for buildings undergoing a Change of Occupancy in all hazard categories.
19	Means of egress – dimensions (2), (8)	Existing door and window openings and corridor and stairway widths less than those specified elsewhere in this Code may be approved, provided that there is sufficient width and height for a person to pass through the opening or traverse the means of egress. Exception: Approval by Code Official required for buildings undergoing a Change of Occupancy in all hazard categories.
20	Fire escapes and exit ladders (3), (7)	Exits shall conform or be made to conform to the provisions of the regular code. Exceptions: 1. New fire escapes and fire escape ladders which comply with Section 8.502.2 shall be acceptable as one of the required means of egress. 2. Existing previously approved fire escapes and fire escape ladders shall be acceptable as one of the required means of egress provided they extend to the ground and are easily negotiated, adequately signed and in good working order. Access shall be by an opening having a minimum dimension of twenty-nine (29) inches (737 mm) when open. No sill shall be more than thirty (30) inches (762 mm) above the adjacent floor, landing or approved step. 3. Approval by Code Official required for buildings undergoing a Change of Occupancy in all hazard categories.
21	Fire escapes – new (3)	New fire escapes and new fire escape ladders shall comply with the following: 1. Access from a corridor shall not be through an intervening room. 2. All openings within 10 feet (3,048 mm) shall be protected by three-quarters (¾) hour fire assemblies. When located within a recess or vestibule, adjacent enclosure walls shall be of not less than one-hour fire-resistive construction. 3. Egress from the building shall be by a clear opening having a minimum dimension of not less than twenty-nine (29) inches (737 mm). Such openings shall be operable from the inside without the use of a key or special knowledge or effort. The sill of an opening giving access shall not be more than thirty (30) inches (737 mm) above the floor, step or landing of the building or balcony.

	Item/Source	Recommended Language
Doors, Hardware, Windows (cont'd)		
21	Fire escapes – new (3) (cont'd)	4. Fire escape stairways and balconies shall support the dead load plus a live load of not less than one hundred (100) pounds per square foot and shall be provided with a top and intermediate hand rail on each side. The pitch of the stairway shall not exceed seventy-two (72) degrees with a minimum width of eighteen (18) inches (457 mm). Treads shall not be less than four (4) inches (102 mm) in width and the rise between treads shall not exceed ten (10) inches (254 mm). All stair and balcony railings shall support a horizontal force of not less than fifty (50) pounds per lineal foot (729.5N/m2) of railing. 5. Balconies shall not be less than forty-four (44) inches (1,118 mm) in width with no floor opening other than the stairway opening greater than five-eighths (⅝) inch in width. Stairway openings in such balconies shall not be less than twenty-two (22) inches by forty-four (44) inches (559 by 1,118 mm). The balustrade of each balcony shall not be less than thirty-six (36) inches (914 mm) high with not more than nine (9) inches (287 mm) between balusters. 6. Fire escapes shall extend to the roof or provide an approved goose neck ladder between the top floor landing and the roof when serving buildings four (4) or more stories in height having roofs with less than four (4) units vertical in twelve (12) units horizontal (33.3%) slope. Fire escape ladders shall be designed and connected to the building to withstand a horizontal force of one hundred (100) pounds (445N) placed anywhere on the rung. All ladders shall be at least fifteen (15) inches (381 mm) wide, located within twelve (12) inches (305 mm) of the building. Ladder rungs shall be three-quarters (¾) inch (19.1 mm) in diameter and shall be located twelve (12) inches (305 mm) on center. Openings for roof access ladders through cornices and similar projections shall have minimum dimensions of thirty (30) inches by thirty-three (33) inches (762 by 838 mm). The length of fire escapes and exit ladder devices shall be limited to that approved by the Building Official based on products listed by a recognized testing laboratory. 7. The lowest balcony shall not be more than eighteen (18) feet (5,486 mm) from the ground. Fire escapes shall extend to the ground or be provided with counter balanced stairs reaching to the ground. 8. Fire escapes shall not take the place of stairways required by the codes under which the building was constructed. 9. Fire escapes shall be kept clear and unobstructed at all times and maintained in good working order.
Fire Protection Systems		
22	Sprinkler alternative (3), (7), (8)	1. Every historic building that does not conform to the construction requirements specified in this Code for the occupancy or use and that constitutes a distinct fire hazard shall be provided with an automatic sprinkler system. However, the automatic sprinkler system shall not be used to substitute for, or act as an alternative to, the required number of exits from any facility. 2. For nonhazardous occupancies, an automatic sprinkler system is defined by the following standards: a. For floors fourth and below, NFPA 13R. b. For floors above the fourth, NFPA 13. c. For all floors of buildings taller than seventy-five (75) feet, NFPA13. d. When the building is freestanding, two (2) floors and one thousand five hundred (1,500) square feet per floor or less, NFPA13D. Exception: When the fire automatic suppression system is used to reach compliance in three (3) or more occasions, the installed system shall meet the next higher NFPA standard and approval by the Code Official is required.

	Item/Source	Recommended Language
Fire Protection Systems (cont'd)		
23	Sprinklers – A-2 Occupancies (Nightclubs, Restaurants, Bars, Taverns with greater than fifty (50) persons) (5)	An automatic sprinkler system shall be provided when the existing building or structure or a portion of existing building or structure is changed to an A-2 occupancy.
Interior Dimensions, Finishes and Materials		
24	Interior finishes (7), (8)	Existing and replicated historic finishes of walls and ceilings shall be accepted where documented in the Historic Report.
25	Ceiling height (4)	Existing ceiling heights shall be permitted to remain. Exception: Buildings of Group R-1 or R-2.
26	Dead-end corridor (6)	In other than Group A occupancies, existing dead-end corridors less than thirty-five (35) feet may remain. Newly constructed dead-end corridors shall comply with the prevailing code or NFPA 101, Life Safety Code, for new buildings. Exceptions: 1. Where existing dead-end corridors of greater length are permitted by NFPA 101, Life Safety Code. 2. The maximum length of an existing dead-end corridor shall be fifty (50) feet in buildings equipped throughout with an automatic sprinkler system installed in accordance with the prevailing code.
27	Interior finishes: Walls and floor/ceiling assembly (1)	In buildings less than three thousand five hundred (3,500) square feet/floor and less than four (4) stories in height, an existing historic wall or floor/ceiling assembly documented in the Historic Report may remain, provided that all vertical and horizontal penetrations are protected and the entire building is equipped with an automatic fire alarm and smoke or heat detection system. Exception: Group A-2 and H occupancies and areas where open flames are used or commercial cooking occurs as defined by the Fire Code.
28	Transoms (1), (7)	In buildings with automatic sprinkler systems of Group R-1, R-2 or R-3 occupancy, existing transoms in corridors and other fire resistance-rated walls may be maintained if fixed in the closed position. A sprinkler shall be installed on each side of the transom. Exception: In buildings without automatic sprinkler systems, existing transoms fixed in the closed position with fixed wired glass or other approved glazing installed on one (1) side of the transom shall be accepted.
Fire Resistance		
29	Fire resistance: Exterior walls (4), (3), (7)	For buildings of Type I, II or III construction greater than fifty (50) feet from adjacent buildings, or located within fifty (50) feet of buildings with the same construction classification, exterior walls shall not be required to be modified to meet the requirements for fire resistive wall construction. For all other conditions, the fire resistance requirement for existing exterior walls and existing opening protection is satisfied when an automatic sprinkler system designed for exposure protection is installed. The automatic sprinklers may be installed on the exterior under the roof line with at least one (1) sprinkler head located over each opening requiring protection. Additional sprinkler heads shall also be distributed along combustible walls under the roofline that do not meet the fire-resistive requirement due to their relationship to property lines as required by regular code. Such sprinkler systems may be connected to an adequate domestic water supply on the street main side of the building shut-off valve. A shut-off valve may be installed for the sprinkler system provided it is locked in an open position.

	Item/Source	Recommended Language
Fire Resistance (cont'd)		
29	Fire resistance: Exterior walls (4), (3), (7) (cont'd)	Exceptions: 1. Requirements for fire-resistive wall construction to be met if the building or any immediately adjacent building is classified as a high hazard occupancy. 2. Approval by Code Official required for buildings undergoing a Change of Occupancy in all hazard categories.
30	Fire resistance: Occupancy separations (3)	1. Required occupancy separations of more than one (1) hour may be reduced to one-hour fire-resistive construction with all openings protected by not less than three-quarters-hour fire-resistive assemblies of the self-closing or automatic closing type when the building is provided with an automatic suppression system throughout the entire building in accordance with prevailing code. Doors equipped with automatic closing devices shall be of a type that will function upon activation of a device which responds to products of combustion rather than heat. 2. Required occupancy separations of one (1) hour may be omitted when the building is provided with an approved automatic sprinkler system throughout.
31	Fire resistance: One-(1) hour assemblies (6), (3), (8)	1. Required one-hour fire-resistance construction need not be provided, regardless of construction or occupancy, where the wall and ceiling finish is wood or metal lath and plaster in good condition. 2. For other wall and ceiling finishes, one-hour fire-resistive construction is not required when any of the following conditions are met: a. The building has an automatic sprinkler system; b. An SFM-approved, laboratory listed intumescent paint is applied on the room side of the corridor; or c. Walls or ceilings are filled with mineral fiber or glass fiber insulation.
32	Fire resistance: Vertical shafts (3), (7)	Vertical shafts need not be enclosed when such shafts are blocked at every floor level by the installation of not less than two (2) full inches (51 mm) of solid wood or equivalent construction installed as to prevent the initial passage of smoke and flame. Exception: When approved by the Code Official, vertical shafts need not be enclosed when the building is protected with an automatic sprinkler system.
33	Glazing in fire-resistance rated systems (8)	Historic glazing materials in interior walls required to have a one-hour fire-resistance rating may be permitted when provided with approved smoke seals and when the area affected is provided with an automatic sprinkler system.
Museums		
34	Museums and special occupancies (1), (4), (8)	Special occupancy purposes such as museums, libraries, exhibits and similar uses less than three thousand five hundred (3,500) square feet (325.5 m^2) per floor and under four (4) stories in height shall be regulated as a Group B occupancy. Adequate means of egress shall be provided and shall, as applicable, include: 1. A means of maintaining doors in an open position to permit egress; 2. A limit on building occupancy to an occupant load permitted by the means of egress capacity; 3. A limit on occupancy of certain areas or floors; or 4. Supervision by a person knowledgeable in the emergency exiting procedures. For buildings with a single means of egress, occupancy shall be limited to the first and second floors, and the travel distance shall not exceed seventy-five (75) feet.

	Item/Source	Recommended Language
Light and Ventilation		
35	Light and ventilation: Interior rooms (3)	Existing provisions for light and ventilation which do not, in the opinion of the Code Official, constitute a safety hazard may remain providing that other residential and escape requirements are met.
36	Light and ventilation (3)	Existing provisions for light and ventilation which do not, in the opinion of the Code Official, constitute a safety hazard may remain providing that other residential and escape requirements are met.
Residential Occupancies		
37	Residential occupancies – High rise (5)	When a qualified historic building greater than sixty (60) feet in height is changed to include a Group R occupancy, the building or portion of the building shall comply with all of the following: 1. An automatic sprinkler system complying with the prevailing code shall be provided in all work areas; 2. A standpipe system complying with the prevailing code shall serve all work areas; 3. When an elevator serves a work area, at least one (1) elevator shall be provided with Phase I and II emergency controls complying with the prevailing code. Exception: Approval by Code Official required for buildings undergoing a Change of Occupancy in all hazard categories.
Roofs		
38	Roof covering (1)	The existing type of roof covering shall be permitted to be replaced with the same materials. Exception: Replacement may be made using historic materials documented in the Historic Report.
Stairs		
39	Stair dimensions (1), (4), (7)	Riser, tread and width dimensions of historic stairs may remain unless determined by the Code Official to constitute a distinct hazard. When stairs are replaced without changes to floor plan or structural framing, the historic riser height, tread and width dimensions are permitted to remain.
40	Stair enclosure (1), (8)	In buildings of three (3) stories or less, exit enclosure construction shall limit the spread of smoke by the use of tight-fitting doors and solid elements. Such elements are not required to have a fire-resistance rating. Exception: An enclosure for one (1) existing stair in a building may be omitted where such stair: 1. Is documented as a historic stair; 2. Serves only one (1) adjacent floor; and 3. Is limited to one (1) level.
41	Stairs; exits – General (7)	Existing stairs meeting the requirements of this Chapter are permitted to be considered part of the means of egress unless determined by the Code Official to constitute a distinct hazard.
42	Stairs – Exit stairs, stairways and railings (7)	Existing stair geometries are permitted to remain as an exit stair if all other characteristics are acceptable and at least fifty percent (50%) of the overall exit capacity is provided through fully compliant stairs. Exception: Museums and Special Occupancies with less than three thousand five hundred (3,500) square feet per floor, where any stair, regardless of its riser, tread, width dimensions and railing height or spacing is permitted to serve as an exit stair provided that other code-mandated requirements are met.

	Item/Source	Recommended Language
Stairs (cont'd)		
43	Stairs – Handrails and guardrails (7), (8)	Existing handrails and guardrails at all stairs may remain provided they are not structurally dangerous. The spacing between existing intermediate railings or openings in existing ornamental patterns shall be accepted. Missing elements or members may be replaced to match historic features.
44	Stair winders (6), (7)	Existing winders that are in good structural repair are permitted to remain in occupancies with an occupant load less than fifty (50) persons if there is a second means of egress or if the building is protected throughout with a fire alarm and detection system or automatic sprinkler system.
Structural		
45	Structural changes and repairs (5), (7)	Structural changes and repairs may be made with historic materials that achieve the same performance level as the original construction. Exception: Approval by Code Official required for buildings undergoing a Change of Occupancy in all hazard categories.
46	Structural seismic (1)	Where compliance with the provisions of this code would damage historic character or contributing historic features identified in the Historic Report, alternative methods acceptable to the Code Official may be used.
47	Structural live load (1), (8)	Historic buildings shall comply with the applicable structural provisions for the work as classified in the prevailing code. Exceptions: 1. The Code Official may accept existing floors and approve operational controls that limit the live load on any such floor. 2. Analysis and test methods for evaluation of existing materials shall be permitted to use the methods specified in the code under which the building was constructed, the current Building Code, or other standards as approved by the authority having jurisdiction.
Unsafe Buildings		
48	Unsafe buildings of imminent threat (1), (3), (8)	When a historic building or a component or portion of same is determined to be of imminent need of repair, strengthening or replacement, no work shall be required except as necessary to correct identified unsafe conditions. When the building is declared an imminent threat to life and safety, the Code Official shall consult with the local or state historic preservation officer before any demolition is under taken.

(Ord. 1296 §1, 2008)

CODE COMPARISON TABLE

Prior Code	New Code
1.01.010	1-1-10
1.01.020	1-1-20
1.01.030	Deleted
1.01.050	1-1-20
1.01.060	1-3-10
1.01.070	1-3-130
1.01.080	1-1-50
1.01.100	1-3-140
1.04.010	1-1-20
1.04.020	1-2-10, 1-3-70, 1-3-80, 8-1-50, 10-1-10
1.04.030	1-2-20
1.04.040	1-2-40
1.04.050	1-2-50
1.04.060	1-2-60
1.04.070	1-3-20
1.04.080	1-3-30
1.04.090	1-2-30
1.04.100	1-3-40
1.04.110	1-3-90
1.04.130	1-3-110
1.04.140	1-1-40
1.04.150	1-3-150
1.04.160	1-3-160
1.04.170	1-1-60
1.04.180	1-3-50
1.04.190	1-3-60
1.04.200	1-3-140
1.04.210	1-3-180
1.04.220	1-3-170
1.04.230	1-3-120
1.08.010	1-6-10
1.08.020	1-6-20
1.12.010	1-5-10
1.12.020	1-5-20
1.12.030	1-5-30
1.12.040	1-5-40
1.12.050	1-5-50
1.13.010	5-1-10
1.13.020	5-1-20
1.13.030	5-1-30
1.13.040	5-1-40
1.13.050	5-1-50
1.13.060	5-1-60
1.16.010	2-3-10
1.16.020	2-3-50
1.16.030	2-3-60
1.16.040	1-4-20, 2-3-30
1.16.050	Deleted
1.16.060	1-4-20, 2-3-30
1.16.065	2-3-20
1.16.070	2-3-70
1.16.080	2-3-40
1.16.090	2-3-80
1.16.100	2-3-90
1.16.110	1-4-10
1.16.120	2-3-210
1.16.130	Deleted
1.16.140	2-3-100
1.16.150	2-3-220
1.18.010	2-3-230
1.18.020	2-3-240
1.18.030	2-3-250
1.18.040	2-3-260
1.18.050	2-3-270
1.18.060	2-3-280
1.18.070	2-3-290
1.18.080	2-3-300
1.18.090	2-3-310
1.18.100	2-3-320
1.18.110	2-3-330
1.18.120	2-3-340
1.18.130	2-3-350
1.18.140	2-3-360
1.18.150	2-3-370
2.04.010	2-1-10
2.04.020	2-1-20
2.04.030	2-1-30, 2-1-50
2.04.040	2-1-40
2.04.050	2-1-60
2.04.060	2-1-70
2.04.070	2-1-80
2.04.080	2-1-90
2.12.010	2-7-10
2.12.020	2-7-20
2.12.030	2-7-30
2.12.040	2-7-40
2.12.050	2-7-50
2.12.060	2-7-60
2.16.010	2-9-10
2.16.020	2-9-20
2.16.030	2-9-30
2.24.010	2-6-10
2.24.020	2-6-20
2.24.030	2-6-30
2.24.040	2-6-40
2.24.050	2-6-50
2.24.060	2-6-60
2.25.010	2-2-10
2.25.020	2-2-10
2.25.030	2-2-10
2.26.010	2-8-10
2.26.020	2-8-20
2.26.030	2-8-30
2.26.040	2-8-40
2.26.050	2-8-50
2.26.060	2-8-60
2.30.010	2-5-10
2.30.020	2-5-20
2.30.030	2-5-30
2.30.040	2-5-40
3.04.010	4-1-90
3.05	4-1-80
3.12.010	4-3-10
3.12.020	4-3-20
3.12.030	4-3-30
3.12.040	4-3-40
3.12.050	4-3-50
3.12.060	4-3-60
3.12.070	4-3-70
3.12.080	4-3-80
3.12.090	4-3-90
3.12.100	4-3-100
3.12.110	4-3-110
3.12.120	4-3-120
3.12.130	4-3-130
3.12.140	4-3-140
3.12.150	4-3-150
3.12.160	4-3-160
3.12.170	4-3-170
3.12.180	4-3-180
3.12.190	4-3-190
3.12.200	4-3-200
3.16.010	4-1-40
3.16.020	4-1-20
3.17.010	4-1-60
3.17.020	4-1-70
3.30.010	4-5-10
3.30.020	4-5-20
3.40.010	4-4-10
3.40.020	4-4-20
3.40.030	4-4-30
3.40.040	4-4-40
3.40.050	4-4-50
3.40.060	4-4-60
3.40.070	4-4-70

CODE COMPARISON TABLE

Prior Code	New Code
3.40.080	4-4-80
3.40.090	4-4-90
3.40.100	4-4-100
3.40.110	4-4-110
3.40.120	4-4-120
3.40.130	4-4-130
3.40.140	4-4-140
3.40.150	4-4-150
3.40.160	4-1-10, 4-4-160
3.40.170	4-4-170
3.40.080	4-4-180
4.18.010	2-4-10
4.18.020	2-4-20
4.18.030	2-4-30
4.18.050	2-4-40
4.18.060	2-4-50
4.18.070	2-4-60
4.18.080	2-4-70
4.18.090	2-4-80
4.18.100	2-4-90
4.18.110	2-4-100
4.18.115	2-4-110
4.18.120	2-4-120
4.18.130	2-4-130
4.18.140	2-4-140
4.18.150	2-4-150
4.18.160	2-4-160
4.18.170	2-4-170
4.18.180	2-4-180
4.18.190	2-4-190
4.18.200	2-4-200
4.18.210	2-4-210
4.18.220	2-4-220
4.18.230	2-4-230
4.18.240	2-4-240
4.18.260	2-4-250
5.04.010	6-1-10
5.04.020	6-1-20
5.04.030	6-1-30
5.04.040	6-1-40
5.04.050	6-1-50
5.04.060	6-1-60
5.04.070	6-1-70
5.04.080	6-1-80
5.04.090	6-1-90
5.04.100	6-1-100
5.12.010	6-4-10
5.12.020	6-4-20
5.12.030	6-4-30
5.12.040	6-4-40
5.12.050	6-4-50
5.12.060	6-4-60
5.12.070	6-4-70
5.12.080	6-4-80
5.15.010	6-2-110
5.15.020	6-2-120
5.15.030	6-2-130
5.15.040	6-2-140
5.15.050	6-2-150
5.15.060	6-2-160
5.15.070	6-2-170
5.15.080	6-2-180
5.15.090	6-2-190
5.16.010	6-2-210
5.16.020	6-2-220
5.16.030	6-2-230
5.16.040	6-2-240
5.16.050	6-2-250
5.17.010	6-2-10
5.17.020	6-2-20
5.17.030	6-2-30
5.17.040	6-2-40
5.17.050	6-2-50
5.17.060	6-2-60
5.18.010	6-3-10
5.18.020	6-3-20
5.18.030	6-3-30
5.18.040	6-3-40
5.18.050	6-3-50
5.18.060	6-3-60
5.18.070	6-3-70
5.18.080	6-3-80
5.18.090	6-3-90
5.18.100	6-3-100
5.18.110	6-3-110
5.18.120	6-3-120
5.18.130	6-3-130
6.04.010	7-6-10
6.04.020	7-6-20
6.04.030	7-6-30
6.08.010	7-6-110
6.08.020	7-6-120
6.08.030	7-6-130
6.08.040	7-6-140
6.08.050	7-6-150
6.08.060	7-6-160
6.08.070	7-6-170
6.08.080	7-6-180
6.08.090	7-6-190
6.08.100	7-6-200
6.08.110	7-6-210
6.08.120	7-6-220
6.12.010	7-6-310
6.12.020	7-6-320
6.12.030	7-6-330
6.12.035	7-6-340
6.12.040	7-6-350
6.12.050	7-6-360
6.12.060	7-6-370
6.12.070	7-6-380
6.12.080	7-6-390
6.12.090	7-6-400
7.04.010	7-1-10
7.04.020	7-1-10
7.04.030	7-1-10
7.04.040	7-1-10
7.04.050	7-1-10
7.04.060	7-1-10
7.04.070	7-1-10
7.04.080	7-1-10
7.04.090	7-1-10
7.04.100	7-1-10
7.04.110	7-1-10
7.04.120	7-1-10
7.04.130	7-1-10
7.04.140	7-1-10
7.04.150	7-1-10
7.04.160	7-1-10
7.04.170	7-1-10
7.04.180	7-1-10
7.04.185	7-1-10
7.04.190	7-1-10
7.04.200	7-1-10
7.04.210	7-1-10
7.04.220	7-1-10
7.04.230	7-1-10
7.08.010	7-5-10
7.08.020	7-5-20
7.08.030	7-5-30
7.08.040	7-5-40
7.08.050	7-5-50
7.08.060	7-5-60
7.12.010	7-5-110
7.12.020	7-5-120

CODE COMPARISON TABLE

Prior Code	New Code	Prior Code	New Code	Prior Code	New Code
7.12.030	7-5-130	8.04.110	7-1-110	9.08.030	10-5-20
7.12.040	7-5-140	8.05.010	7-2-40	9.08.040	10-5-40
7.12.050	7-5-150	8.05.020	7-2-40	9.12.010	10-4-10
7.12.060	7-5-160	8.05.030	7-2-40	9.12.020	10-4-20
7.12.070	7-5-170	8.05.040	7-2-40	9.12.030	10-4-30
7.12.080	7-5-180	8.05.050	7-2-40	9.12.040	10-4-50
7.12.090	7-5-190	8.08.010	7-2-20	9.12.050	10-4-160
7.16.010	7-5-310	8.08.020	7-2-20	9.12.060	10-4-110
7.16.020	7-5-320	8.12.010	7-4-10	9.12.070	10-4-120
7.16.030	7-5-330	8.12.020	7-4-20	9.12.080	10-4-130
7.16.050	7-5-340	8.12.030	7-4-30	9.12.090	10-4-140
7.16.060	7-5-350	8.12.040	7-4-40	9.12.100	10-4-150
7.16.070	7-5-360	8.12.050	7-4-50	9.12.110	10-4-70
7.16.080	7-5-370	8.12.060	7-4-60	9.12.120	10-4-80
7.16.090	7-5-380	8.12.070	7-4-70	9.12.130	10-4-90
7.16.100	7-5-390	8.12.080	7-4-80	9.12.140	10-4-100
7.16.110	7-5-400	8.12.090	7-4-90	9.12.150	10-4-40
7.16.120	7-5-410	8.16.010	7-2-10	9.12.160	10-5-50
7.20.010	7-5-510	8.20.010	7-2-30	9.12.170	10-4-60
7.20.020	7-5-520	8.20.020	7-2-30	9.12.180	10-4-170
7.20.030	7-5-530	8.20.030	7-2-30	9.16.010	Deleted
7.20.040	7-5-540	8.21.010	15-14-10	9.16.020	10-3-10
7.20.050	7-5-550	8.21.020	15-14-20	9.16.030	10-5-60
7.20.060	7-5-560	8.21.030	15-14-30	9.16.040	10-7-10
7.20.070	7-5-570	8.21.040	15-14-40	9.16.050	10-5-80
7.20.080	7-5-580	8.21.050	15-14-50	9.16.060	10-5-90
7.20.100	7-5-590	8.21.060	15-14-60	9.16.070	10-5-100
7.20.110	7-5-600	8.21.070	15-14-70	9.16.080	10-5-70
7.20.120	7-5-610	8.21.080	15-14-80	9.20.010	10-8-10
7.20.130	7-5-620	8.22.010	5-2-10	9.20.020	10-8-30
8.03.010	7-3-10	8.22.020	5-2-20	9.20.030	10-8-20
8.03.020	7-3-20	8.22.030	5-2-30	9.20.040	10-8-40
8.03.030	7-3-30	8.22.040	5-2-40	9.24.010	10-9-10
8.03.040	7-3-40	8.22.050	5-2-50	9.24.020	10-9-20
8.03.050	7-3-50	8.22.060	5-2-60	9.24.030	10-9-30
8.03.060	7-3-60	8.22.070	5-2-70	10.04.010	8-1-10
8.03.070	7-3-70	8.22.080	5-2-80	10.04.020	8-1-20, 8-1-30
8.04.010	7-1-10	9.04.010	10-2-70	10.04.030	8-1-40
8.04.020	7-1-20	9.04.020	10-2-20	10.04.040	8-1-50
8.04.030	7-1-30	9.04.030	10-2-10	10.04.050	8-1-60
8.04.040	7-1-50	9.04.040	10-2-30	10.04.060	8-1-70
8.04.050	7-1-40	9.04.050	10-2-80	10.04.070	8-1-80
8.04.060	7-1-60	9.04.060	10-2-40	10.08.010	8-2-10
8.04.070	7-1-70	9.04.070	10-2-50	10.08.020	8-2-20
8.04.080	7-1-80	9.04.080	10-2-60	10.08.030	8-2-30
8.04.090	7-1-90	9.08.010	10-5-10	10.08.040	8-2-40
8.04.100	7-1-100	9.08.020	10-5-30	10.08.050	8-2-50

CODE COMPARISON TABLE

Prior Code	New Code
10.08.060	8-2-60
10.08.070	8-2-70
10.08.080	8-2-80
10.08.090	8-2-90
10.12.010	8-3-10
10.12.020	8-3-20
10.12.030	8-3-30
10.12.040	8-3-40
10.12.050	8-3-50
10.12.060	8-3-60
10.12.070	8-3-70
11.04.010	10-6-10
11.04.020	10-6-20
11.04.030	10-6-30
11.04.040	10-6-40
11.04.050	10-6-50
12.04.010	11-1-10
12.04.020	11-1-20
12.04.030	11-1-30
12.04.040	11-1-40
12.04.050	11-1-50
12.04.060	11-1-60
12.04.070	11-1-70
12.04.080	11-1-80
12.04.090	11-1-90
12.04.100	11-1-100
12.04.110	11-1-110
12.06.010	11-3-10
12.06.020	11-3-20
12.06.030	11-3-30
12.06.040	11-3-40
12.06.050	11-3-50
12.06.060	11-3-60
12.06.070	11-3-70
12.06.080	11-3-80
12.06.090	11-3-90
12.06.110	11-3-100
12.06.120	11-3-110
12.06.130	11-3-120
12.08.010	11-2-10
12.08.020	11-2-20
12.08.030	11-2-30
12.12.010	11-4-10
12.12.020	11-4-20
12.12.030	11-4-30
12.12.040	11-4-40
12.12.050	11-4-50
12.12.060	11-4-60
12.12.070	11-4-70
12.12.080	11-4-80
13.04.010	13-1-10
13.04.020	13-1-20
13.04.030	13-1-30
13.04.040	13-1-40
13.04.050	13-1-50
13.04.060	13-1-60
13.04.070	13-1-70
13.04.080	13-1-80
13.04.090	13-1-90
13.04.100	13-1-100
13.04.110	13-1-110
13.04.120	13-1-120
13.04.130	13-1-130
13.04.140	13-1-140
13.04.150	13-1-150
13.04.160	13-1-160
13.04.170	13-1-170
13.04.180	13-1-180
13.04.190	13-1-190
13.04.200	13-1-200
13.04.210	13-1-210
13.08.010	13-2-10, 13-2-20
13.08.020	13-2-30
13.08.030	13-2-40
13.08.040	13-2-50
13.08.050	13-2-60
13.08.060	13-2-70
13.08.070	13-2-80
13.08.080	13-2-90
13.08.090	13-2-100
13.08.100	13-2-110
13.08.110	13-2-120
13.08.120	13-2-130
13.12.010	13-3-10
13.12.020	13-3-20
13.12.030	13-3-30
13.12.040	13-3-40
13.12.050	13-3-50
13.12.060	13-3-60
13.12.070	13-3-70
13.12.080	13-3-80
13.12.090	13-3-90
13.12.100	13-3-100
13.12.110	13-3-110
13.12.120	13-3-120
13.12.130	13-3-130
13.16.010	13-4-10
13.16.020	13-4-20
13.16.030	13-4-30
13.30.010	13-5-10
13.30.020	13-5-20
13.30.030	13-5-30
13.30.040	13-5-40, 13-5-50
15.04.010	15-1-10, 15-1-20
15.04.020	15-1-30
15.04.030	15-1-40
15.05.010	15-2-10, 15-2-20
15.05.020	15-2-30
15.05.030	15-2-40
15.12.010	15-3-10, 15-3-20
15.12.020	15-3-30
15.12.030	15-3-40
15.14.010	15-4-10, 15-4-20
15.14.020	15-4-40, 15-4-50
15.14.030	15-4-60
15.14.040	15-4-70
15.15.010	15-5-10, 15-5-20
15.15.030	15-5-30
15.15.040	15-5-40
15.16.010	15-6-10, 15-6-20
15.16.020	15-6-30
15.16.030	15-6-40
15.20.010	15-7-10, 15-7-20
15.20.020	15-7-30
15.20.030	15-7-40
15.28.010	15-8-10, 15-8-20
15.28.020	15-8-30
15.28.030	15-8-40
15.32.010	15-9-10
15.32.020	15-9-20
15.32.050	15-9-40
15.32.060	15-9-50
15.32.070	15-9-60
15.35.010	15-10-10
15.35.020	15-10-20
15.35.030	15-10-30
15.35.040	15-10-40
15.36.010	15-11-10
15.36.020	15-11-20
15.36.030	15-11-30
15.40.010	15-12-10
15.40.020	15-12-20
15.40.030	15-12-30
15.44.010	15-13-10

CODE COMPARISON TABLE

Prior Code	New Code
15.44.020	15-13-20
15.44.030	15-13-30
15.44.040	15-13-40
15.44.050	15-13-50
15.44.060	15-13-60
15.44.070	15-13-70
15.44.080	15-13-80
15.44.090	15-13-90
15.50.010	15-15-10
15.50.020	15-15-20
15.50.030	15-15-30
15.50.040	15-15-40
15.50.050	15-15-50
15.50.060	15-15-60
15.50.080	15-15-70
15.50.090	15-15-80
15.50.100	15-15-90
15.50.110	15-15-100
15.50.120	15-15-110
15.50.130	15-15-120
15.50.140	15-15-130
15.50.150	15-15-140
15.50.160	15-15-160
15.50.170	15-15-150
15.50.180	15-15-170
15.50.190	15-15-180
15.50.200	15-15-190
15.50.210	15-15-200
15.50.220	15-15-210
15.50.240	15-15-220
15.50.250	15-15-230
15.50.260	15-15-240
17.01.010	4-6-10
17.01.020	4-6-20
17.01.030	4-6-30
17.01.040	4-6-40
17.01.050	4-6-50
17.01.060	4-6-60
17.01.070	4-6-70
17.02.010	4-6-110
17.02.020	4-6-120
17.02.030	4-6-130
17.02.040	4-6-140
17.02.050	4-6-150
17.02.060	4-6-160
17.03.010	4-6-210
17.03.020	4-6-220

Prior Code	New Code
17.03.030	4-6-230
17.03.040	4-6-240
17.03.050	4-6-250
17.03.060	4-6-260
17.03.070	4-6-270
17.03.080	4-6-280
17.03.090	4-6-290
17.03.100	4-6-300
17.03.110	4-6-310
17.03.120	4-6-320
17.03.130	4-6-330
17.03.140	4-6-340
17.03.150	4-6-350
17.03.160	4-6-360
17.03.170	4-6-370
17.03.180	4-6-380
17.03.190	4-6-390
17.03.200	4-6-400
17.03.210	4-6-410
17.03.220	4-6-420
17.04.010	4-6-510
17.04.020	4-6-520
17.04.030	4-6-530
17.04.040	4-6-540
17.04.050	4-6-550
17.05.010	4-6-610
17.05.020	4-6-620

ORDINANCE LIST AND DISPOSITION TABLE

Ord. No.	
1901 ordinance compilation:	
1	Misdemeanor offenses (Repealed by 651)
2	Fire department and fire safety provisions; repeals ordinance of 1/18/1898 relating to high-explosives storage (Repealed by 651)
3	Business regulation and entertainment licensing (Repealed by 651)
4	(Missing)
5	Sidewalk construction, assessments and maintenance (Repealed by 651)
6	Sidewalk cuts; obstruction of streets and alleys (Repealed by 651)
7	Fire limits (Repealed by 651)
8	Public cemetery (Not codified)
9	Town scavenger; refuse disposal (Repealed by 651)
10	Street and building numbering (Repealed by 651)
11	Sanitary sewer district No. 1; sewer construction and use (Repealed by 651)
12	Electric light franchise; repeals franchise of 3/31/1888 (Special)
13	Grants right-of-way to Rio Grande Southern Railroad Co. (Special)
14	Grants right-of-way for telephone lines to J. B. Bailey (Special)
15	Grants franchise to Colorado Telephone Co. (Special)
16	Town seal (Repealed by 651)
17	Water rights on Cornett Creek; waterworks bond issue (Not codified)
18	Water bond issue (Special)
19	Refunding bond issue (Special)
20	Water service; plumber license (Repealed by 651)
21	Street excavations (Not codified)
22	Ordinances; general provisions and general penalty (Repealed by 651)
23	Advances town to second-class city; town officers (Repealed by 651)
24	Liquor license fee (Repealed by 651)
25	Annual appropriations (Special)

Ord. No.	
1909 ordinance compilation:	
1	Misdemeanor offenses (Repealed by 651)
2	Fire department and fire safety provisions; repeals ordinance of 1/18/1898 relating to high-explosives storage (Repealed by 651)
3	Fire limits (Repealed by 651)
4	Entertainment licensing (Repealed by 651)
5	Posters and handbills (Repealed by 651)
6	Liquor licensing (Repealed by 651)
7	Sidewalk cuts; obstruction of streets and alleys (Repealed by 651)
8	Sidewalk construction, assessments and maintenance (Repealed by 651)
9	Street and building numbering (Repealed by 651)
10	Street excavations (Not codified)
11	Sanitary sewer district No. 1; sewer construction and use (Repealed by 651)
12	Extends electric light franchise (Special)
13	Grants right-of-way to Rio Grande Southern Railroad Co. (Special)
14	Grants right-of-way for telephone lines to J. B. Bailey (Special)
15	Grants franchise to Colorado Telephone Co. (Special)
16	Town seal (Repealed by 651)
17	Water rights on Cornett Creek; waterworks bond issue (Special)
18	Water bond issue (Special)
19	Refunding water bonds (Special)
20	Water service; plumber licensing (Repealed by 651)
21	Disease control; birth and death records (Repealed by 651)
22	City scavenger; refuse disposal (Not codified)
23	Public cemetery (Not codified)
24	Wards, precincts and town officers (Repealed by 651)
25	Ordinances (Repealed by 651)

Ord. No.	
1917 ordinance compilation:	
1	Misdemeanor offenses (Repealed by 651)
2	Fire department and fire safety provisions; repeals ordinance of 1/18/1898 relating to high-explosives storage (Repealed by 651)
3	Fire limits (Repealed by 651)
4	Traffic (Repealed by 651)
5	Entertainment licensing (Repealed by 651)
6	Posters and handbills (Repealed by 651)
7	Junk dealers (Repealed by 651)
8	Warrantless searches for liquor (Repealed by 651)
9	Sidewalk construction, assessments and maintenance (Repealed by 651)
10	Sidewalk cuts; obstruction of streets and alleys (Repealed by 651)
11	Street and building numbering (Repealed by 651)
12	Excavations in streets (Not codified)
13	Grants franchise to Rio Grande Southern Railroad Co. (Special)
14	Grants franchise to Colorado Telephone Co. (Special)
15	Grants right-of-way for telephone lines to J. B. Bailey (Special)
16	Grants electric franchise to Western Colorado Power Co. (Special)
17	Water service; plumber licensing (Repealed by 651)
18	Water rights on Cornett Creek (Repealed by 651)
19	Sanitary sewer district No. 1; sewer construction and use (Repealed by 651)
20	Disease control; birth and death records (Repealed by 651)
21	City scavenger; refuse disposal (Not codified)
22	Public cemetery (Not codified)
23	City seal (1.08)
24	Wards, precincts and town officers (Repealed by 651)
25	Ordinances (Repealed by 651)
26	(Repealed by 517)
27	(Expired)
28	(Repealed by 517)
29	(Repealed by 517)
30	(Expired)
31	(Repealed by 517)
32	(Expired)
33	Amends Ord. 24 Art. VI § 4, city clerk's duties and compensation (Repealed by 517)
34	(Repealed by 517)
35	(Repealed by 517)
36	(Repealed by 517)
37	(Repealed by 517)
38	(Repealed by 517)
39	(Repealed by 517)
40	(Expired)
41	(Repealed by 517)
42A	(Repealed by 517)
42B	(Repealed by 517)
43	(Expired)
44	Motor vehicle regulations (Repealed by 517)
45	(Expired)
46	(Expired)
47	(Repealed by 517)
48	Handling and removal of manure (Repealed by 517)
49	Amends Ord. 22 Art. III § 3, scavenger department (Repealed by 517)
50	1914 property tax (Expired)
51	Amends Ord. 7 Art. I § 3, sidewalks and street signs (Repealed by 517)
52	(Expired)
53	1915 property tax (Repealed by 517)
54	Amends Art. IV § 2, and Art. XIII § 2 of Ord. 24, officers' duties and compensation (Repealed by 517)
55	Amends Ord. 24 Art. VI § 4, city clerk's duties and compensation (Repealed by 517)
56	Amends Art. VIII § 3, city marshal's duties and compensation, and repeals Art. X of Ord. 24 (Repealed by 517)
57	Appointment, duties and compensation of street supervisor and city scavenger; amends Art. III § 7, election and appointment of officers, and repeals Arts. X and XI of Ord. 24 (Repealed by 517)
58	Amends Ord. 6 Art. I §§ 2 and 3, selling of intoxicating liquors (Expired)
59	(Expired)

Ord. No.	
60	Amends §§ 5 and 6, and repeals §§ 3 and 4, of Ord. 44, motor vehicle regulations Expired)
61	Creates subdivision 7 of sewer district No. 1 (Repealed by 517)
62	1916 tax levy (Expired)
63	Sewer construction assessments in subdivision 7 of sewer district No. 1 (Repealed by 517)
64	Amends § 9 and repeals § 15 of Ord. 4, licenses (Repealed by 517)
65	(Expired)
66	Authority of city marshal to search premises for prohibited intoxicating liquors (Repealed by 517)
67	Electric light, heat and power franchise (Expired)
68	1917 property tax levy (Expired)
69	Amends Ord. 24 Art. III § 7, election and appointment of officers (Repealed by 517)
70	Amends Art. V § 2, Art. VII § 2 and Art. XIII § 2 of Ord. 24, officers' duties and compensation (Repealed by 517)
71	Amends Ord. 24 Art. II, election precincts (Repealed by 517)
72	Amends Art. I § 4, and repeals Art. II § 6 of Ord. 1, animals; amends Ord. 20 Art. I § 20, water regulations (Repealed by 517)
73	(Expired)
74	Regulation and licensing of junk dealers (Repealed by 517)
75	Appointment and duties of city scavenger; removal of manure, garbage and rubbish (Repealed by 517)
76	Amends Ord. 1 Art. V § 17, animals (Repealed by 517)
77	Motor-propelled vehicle regulations (Repealed by 518)
78	Amends subdivisions (3), (4) and (16), and repeals subdivision (10), of § 1 of Ord. 4, licenses (Repealed by 517)
79	1918 tax levy (Expired)
80	(Expired)
81	Wartime working requirements for able-bodied males (Repealed by 517)
82	1919 tax levy (Expired)
83	(Expired)
84	Prohibition of intoxicating liquors (Repealed by 517)
85	Licensing and regulation of pool halls, places and business selling soft drinks, and rooms for playing cards (Repealed by 517)
86	Amends Ord. 85 § 2, license fees for certain businesses (Repealed by 517)
87	1920 property tax levy (Expired)
88	Begging, peddling or soliciting in any military or naval uniform (Repealed by 517)
89	(Expired)
90	1921 property tax levy (Expired)
91	Telephone and telegraph franchise (Expired)
92	(Expired)
93	Electrical wiring requirements (Repealed by 517)
94	1922 property tax (Expired)
95	(Expired)
96	Inspection of premises for fire hazards (Repealed by 517)
97	1923 property tax levy (Expired)
98	(Expired)
99	Nuisance declaration procedure for vacant, dilapidated or decayed buildings (Repealed by 517)
100	1924 property tax levy (Expired)
101	(Expired)
102	1925 property tax levy (Expired)
103	(Expired)
104	1926 property tax levy (Expired)
105	(Expired)
106	1927 property tax levy (Expired)
107	(Expired)
108	Motor vehicle regulations (Repealed by 518)
109	Amends §§ 1 and 9 of Art. 1 of Ord. 5, licenses, of the 1917 compilation of ordinances (Repealed by 517)
110	1928 property tax levy (Expired)
111	(Expired)
112	1929 property tax levy (Expired)
113	(Expired)
114	1930 property tax levy (Expired)
115	(Expired)

Ord. No.	
116	1931 property tax levy (Expired)
117	(Expired)
118	Amends Art. IV §§ 1 and 2, Art. V § 2 and Art. VI § 4 of Ord. 24, officers' duties and compensation (Repealed by 517)
119	1932 property tax levy (Expired)
120	(Expired)
121	1933 property tax levy (Expired)
122	(Expired)
123	(Expired)
124	Water contracts and payment of water license rates (Repealed by 517)
125	(Expired)
126	(Expired)
127	Amends Ord. 1 Art. 2 §§ 1 and 5, animals (Repealed by 518)
128	Fireworks and explosives prohibited (Expired)
129	Licensing of public dances (Repealed by 517)
130	Licensing of machines capable of reproducing music (Repealed by 517)
131	Licensing of entertainers in certain businesses (Repealed by 517)
1/6/41	Licensing of pinball machines or similar mechanical devices, and cardtables (Missing)
132	(Expired)
133	(Expired)
134	Municipal defense council (Repealed by 517)
135	Blackout ordinance (Repealed by 517)
136	(Expired)
137	Repeals Ord. 5 Art. 1 § 2 (Repealer)
138	(Expired)
139	Compensation of officers (Repealed by 324)
140	Regulates removal or destruction of buildings (Repealed by 517)
141	(Repealed by 517)
142	(Expired)
143	Conveyance, transfer and sale of property (Special)
144	Sale and conveyance of property (Special)
145	(Repealed by 517)
146	(Repealed by 518)
147	(Repealed by 517)
148	Sale and conveyance of property (Repealed by 324)
149	(Repealed by 517)
150	Conveyance of property (Special)
151	(Expired)
152	(Expired)
153	(Repealed by 517)
154	(Repealed by 518)
155	(Repealed by 517)
156	Amends § 3 of Art. I of Ord. 22, public cemetery, of 1917 compilation of ordinances (Special)
157	(Repealed by 517)
158	(Expired)
159	(Expired)
160	(Repealed by 518)
161	(Expired)
162	(Expired)
163	(Repealed by 324)
164	(Expired)
165	(Expired)
166	Closure and conveyance of certain alleys (Special)
167	Closure, sale and conveyance of property (Special)
168	(Expired)
169	(Expired)
170	(Repealed by 518)
171	(Expired)
172	(Expired)
173	Lease and option agreement (Special)
174	(Expired)
175	(Expired)
176	(Expired)
177	(Expired)
178	(Expired)
179	(Repealed by 518)
180	(Expired)
181	(Repealed by 518)
182	Exchange of real property (Special)
183	(Expired)
184	(Expired)
185	(Expired)
186	Gas distribution franchise (Special)
187	(Expired)
188	(Repealed by 517)
189	(Expired)

Ord. No.	
190	(Repealed by 517)
191	(Expired)
192	(Expired)
193	Closure and conveyance of certain alley (Special)
194	Withdrawal from public use and conveyance of property (Special)
195	(Repealed by 517)
196	General obligation water bonds (Special)
197	(Repealed by 517)
198	(Expired)
199	Electricity franchise (Special)
200	(Repealed by 518)
201	Sale or exchange of property (Special)
202	(Expired)
203	Sale of property (Special)
204	Street vacation (Special)
205	Street vacations (Special)
206	Sale of property (Special)
207	(Expired)
208	Sale of property (Special)
209	(Repealed by 517)
210	(Expired)
211	Sales tax (Repealed by 481)
212	Easement agreement (Special)
213	(Repealed by 517)
214	(Repealed by 517)
215	Abolishes municipal wards and consolidates municipal election precincts (Repealed by 651)
216	(Repealed by 517)
217	Sewer improvement revenue bonds (Special)
218	(Repealed by 517)
219	(Expired)
220	Town officers' and employees' insurance system (Special)
221	(Repealed by 517)
222	(Expired)
223	Quitclaim deed (Special)
224	(Repealed by 517)
225	Quitclaim deed (Special)
226	(Expired)
227	Amends Ord. 211 § 5, sales tax (Repealed by 481)
228	Street vacations (Special)
229	(Repealed by 518)
230	(Expired)
231	Zoning (18.02, 18.04, 18.06, 18.08, 18.10, 18.12, 18.14, 18.16, 18.18, 18.20, 18.22, 18.24, 18.26, 18.30, 18.32, 18.34, 18.35, 18.38, 18.40, 18.42)
232	(Repealed by 518)
233	Salary of municipal judges (Repealed by 269)
234	(Repealed by 518)
235	Mobile homes (18.90, 18.92, 18.94)
236	Salary of municipal judges (Repealed by 269)
237	(Expired)
238	Building code (Repealed by 651)
239	(Expired)
240	(Repealed by 518)
241	Conveyance of property (Special)
242	Designates portion of town sales tax receipts for water improvements (Special)
243	(Expired)
244	(Expired)
245	Amends § 3(B) of Ord. 235, mobile homes (Repealed by 284)
246	(Repealed by 518)
247	Adds § 201.11a, dwelling unit, to and amends §§ 402.1 and 404, residential district, of Ord. 231; repeals § 402.5 (18.04, 18.08)
248	Vacation of certain roadways (Special)
249	Water and sewer plant fees (Repealed by 517)
250	(Repealed by 518)
251	(Repealed by 517)
252	(Expired)
253	(Repealed by 517)
254	Adds historic preservation district to Art. III, and adds § 701.1.13 and Art. VII to Ord. 231 (Repealed by 413)
255	(Repealed by 518)
256	(Repealed by 518)
257	Amends § 1003 of Ord. 231, zoning amendments (18.40)
258	Planned unit development (18.06, 18.26)
259	(Repealed by 517)
260	(Repealed by 517)
261	Adds § 703.9, off-street parking, to Ord. 231 (Repealed by 313)
262	(Expired)
263	(Repealed by 517)

Ord. No.	
264	(Repealed by 351)
265	Water and sewer plant fees (Repealed by 517)
266	Use tax (Repealed by 481)
267	(Repealed by 517)
268	(Repealed by 518)
269	Salary and duties of municipal judges; repeals Ords. 233 and 236 (Repealed by 651)
270	Adds hillside residential district to Art. III of, and adds Art. IX to Ord. 231 (18.06, 18.10)
271	Adds hillside commercial district to Art. III of and adds Art. X to Ord. 231 (Repealed by 403)
272	(Repealed by 518)
273	Annexation (Special)
274	Rezone (Special)
275	Quitclaim deed (Special)
276	Vacation of certain alleys or roadways (Special)
277	Board of adjustment; repeals §§ 801, 802 and 803 of Ord. 231 (Repealed by 414)
278	Repeals and replaces (1) and amends (4)(c) of Art. V (E) of Ord. 254, historic preservation district (Repealed by 403)
279	(Expired)
280	Amends Ord. 265, water and sewer plant fees (Repealed by 517)
281	Amends Ord. 249, water and sewer plant fees (Repealed by 517)
282	Amends § 3 and repeals and replaces § 4 of Ord. 269, municipal judge's salary (Repealed by 651)
283	(Repealed by 518)
284	Amends § 3(B) of Ord. 235, mobile homes; repeals Ord. 245 and § 4(C) of Ord. 235 (18.92)
285	(Repealed by 517)
286	Flood hazards (Repealed by 651)
287	Building permits and requirements in areas of flood hazard (Repealed by 651)
288	Utility business and occupation tax (Repealed by 322)
289	Vacation of certain alley or roadway (Special)
290	(Repealed by 340)
291	(Repealed by 517)
292	Adds § 9 to Ord. 266, use tax (Repealed by 481)
293	Leasehold agreement (Special)
294	Park district; adds park district to Art. III of Ord. 231 (18.06, 18.24)
295	Vacation of certain roadways and rights-of-way (Special)
296	Amends § 206 of Ord. 258, planned unit development; repeals §§ 501.7 and 501.9 of Ord. 231 (18.26)
297	Adds §§ 201.47, 407.1, 408.3, 409.2 and 410.3, secondary principal building, to Ord. 231 (18.08)
298	Adds open space district to Ord. 231 (18.06, 18.22)
299	Repeals § 501.8 of Ord. 231 (Repealer)
300	(Expired)
301	(Repealed by 518)
302	(Repealed by 518)
303	(Repealed by 518)
304	(Repealed by 518)
305	(Repealed by 518)
306	Salaries of elected officials (Repealed by 651)
307	(Repealed by 518)
308	Construction and installation of solid fuel burners (8.12)
309	Adds § 507, commercial district density, to Ord. 231 (Repealed by 490-A)
310	Adds Art. IX, large buildings, to Ord. 254, historic preservation district (Repealed by 403)
311	Adds Art. V (Art. VII)(B)(12), appropriateness certificate, to Ord. 254, historic preservation district (Repealed by 413)
312	Repeals Art. VI of Ord. 231 and references to industrial district; transfers all industrial district land to commercial district (Repealer)
313	Repeals Ord. 261 (Repealer)
314	Alternative collection of building and construction use tax (Repealed by 481)
315	Adds sections to Uniform Building Code (15.04)
316	Acceptance of real property (Special)
317	(Repealed by 518)
318	Exchange of property (Special)

Ord. No.	
319	Vacation of certain alleys or roadways (Special)
320	Planning and Zoning Commission (18.100)
321	Recreation association (Repealed by 388)
322	Occupation tax on telephone utilities; repeals Ord. 288 (5.08, 12.08)
323	(Repealed by 518)
324	Town officers' salaries and duties; repeals Ords. 139, 148 and 163 (Repealed by 651)
325	(Expired)
326	(Repealed by 517)
327	Amends Ord. 308 § 1, solid fuel burners (8.12)
328	Dedication of property (Special)
329	(Expired)
330	Municipal court regulations (Repealed by 651)
331	Water and sewer plant fees (Repealed by 651)
332	Water and sewer plant fees (Repealed by 651)
333	(Repealed by 518)
334	(Expired)
335	(Expired)
336	(Expired)
337	(Expired)
338	(Repealed by 518)
339	(Repealed by 518)
340	Adoption and amendments of uniform codes; amends Ords. 331 and 332, water and sewer plant fees; repeals and replaces the provisions of Ord. 315, Uniform Building Code amendment; repeals Ord. 267 §§ 1--4, 6, 7 and 8, and Ord. 290 (15.04)
341	Environmental commission (Repealed by 651)
342	Repeals and replaces Ord. 269 § 3, municipal judge's salary; repeals Ord. 282 § 1 (Repealed by 651)
343	(Repealed by 517)
344	Amends Ord. 324, compensation of town officers (Repealed by 651)
345	Business and service license (Repealed by 651)
346	Amends Ord. 320 § 7.00, planning and zoning commission (18.100)
347	Alley vacation; exchange of property (Special)
348	(Expired)
349	(Repealed by 517)
350	(Repealed by 517)
351	Licensing of transient businesses and professions; limits home sale solicitations; repeals Ord. 264 (Repealed by 668, 768 and 783)
352	Annexation (Special)
353	Conveyance of property; alley and street vacations (Special)
354	(Expired)
355	Zones annexed land (Special)
356	(Expired)
357	(Expired)
358	(Repealed by 517)
359	(Expired)
360	Amends Ord. 341 § 1.05, environmental commission (Repealed by 651)
361	Designation of areas of local and state land use interest (18.80, 18.82, 18.84)
362	(Repealed by 518)
363	(Expired)
364	Adds § 13.3.1 and Arts. XV and XVI to Ord. 361, areas of local and state land use interest; amends §§ 13.3, 13.5.4 and 13.9.2 (18.80, 18.82, 18.84)
365	Amends Ord. 320 § 2.00, planning and zoning commission (Repealed by 457)
366	Conveyance of property (Special)
367	(Repealed by 517)
368	General obligation water bonds (Special)
369	Interim parking and transportation commission (Not codified)
370	Grants deed of trust for certain property (Special)
371	Adopts and amends Colorado Model Energy Efficiency Construction and Renovation Standards for Nonresidential Buildings (15.32)
372	(Expired)
373	(Expired)
374	Cable television franchise (Special)

Ord. No.	
375	Adds §§ 16.9.4 and 16.9.5 to; amends §§ 16.3.10, 16.5.2(c) and (4), 16.5.3, 16.5.4 and 16.10.6 of; and repeals § 16.13.14 of Ord. 364, hazards and flood-prone areas (18.84)
376	Repeals and replaces Ord. 374 § 15(C), cable television franchise (Special)
377	Indebtedness for purchase of equipment (Special)
378	(Expired)
379	Adds Art. XIII, subdivision provisions, to Ord. 231; repeals § 8.01 of Ord. 320 (Repealed by 422)
380	(Expired)
381	(Repealed by 517)
382	(Repealed by 517)
383	Accommodations tax (Repealed by 407)
384	Repeals and replaces Ord. 360 § 1.02, interim parking and transportation commission (Not codified)
385	Election code (2.04)
386	(Expired)
387	Creates parking and transportation fund, and appropriates revenue (3.16)
388	Parks and recreation commission; repeals Ord. 321 (2.16)
389	Amendment of Uniform Building Code (Repealed by 553)
390	(Expired)
391	Annexation (Special)
392	Zones annexed land (Special)
393	(Expired)
394	(Repealed by 517)
395	Exchange of property (Special)
396	(Expired)
397	(Expired)
398	Environmental commission (2.12)
399	(Expired)
400	Amends Ord. 308 § 3A, solid fuel burners (8.12)
401	Condominium conversions (18.78)
402	Four-month moratorium on certain development (Expired)
403	Adds Arts. X and XI, accommodations districts, to Ord. 231; repeals Art. X, hillside commercial district; amends zoning map (18.14, 18.16)
404	Adds Art. XII, residential commercial district, to Ord. 231; amends Art. III to add district (18.06, 18.20)
405	Adds § 304, uses permitted on review, to Ord. 231 (Repealed by 729)
406	Repeals and replaces § 501, commercial district uses, of Ord. 231 (18.12)
407	Accommodations tax; repeals Ord. 383 (Repealed by 476)
408	Water agreement (Special)
409	Street vacation (Special)
410	Parking and horse-drawn transit system; grants franchise; repeals § 12.4 of Model Traffic Code and adds § 12.4a (Repealed by 518)
411	Water agreement (Special)
412	(Repealed by 517)
413	Adds § 15.8.1(j) to and amends § 13.3 of Ord. 364, areas of local and state interest (18.80, 18.82)
414	Board of adjustment/appeals; repeals Ord. 277 (18.36)
415	Adds new Art. VII, historic preservation district, to Ord. 231; repeals Ords. 254, 310 and 311 (18.06, 18.18)
416	Annexation (Special)
417	Zones annexed land (Special)
418	Zones annexed land (Special)
419	Annexation procedure (18.70, 18.72, 18.74, 18.76)
420	Zones certain land; amends § 1207.1 of Ord. 404, setback in residential commercial zone (18.20)
421	Adds § 1014.0 to Ord. 403, accommodation zone I (18.14)
422	Subdivisions; repeals Ord. 379 (18.44, 18.46, 18.48, 18.50, 18.52, 18.54, 18.56, 18.58, 18.60, 18.62, 18.64, 18.66, 18.68)
423	Grants easement (Special)
424	Street vacations (Special)
425	Amends §§ 1010 of Ord. 403 and 1210 of Ord. 404, accommodation zone floor area (18.20)
426	(Expired)
427	(Expired)
428	(Expired)
429	Appropriation (Special)
430	(Expired)

Ord. No.	
431	(Expired)
432	(Repealed by 517)
433	Grants temporary easement (Special)
434	Residential district regulations; amends § 201.47 of Ord. 297, secondary principal buildings (18.04, 18.08)
435	Temporary provisions on transient businesses (Repealed by 668, 768 and 783)
436	Street vacation (Special)
437	(Repealed by 517)
438	(Repealed by 490)
439	Amends Ord. 340 § 10.03, Uniform Building Code amendment (Repealed by 553)
440	(Expired)
441	Amends §§ 201.32 and 703.8, off-street parking, of Ord. 231 (18.04)
442	Landmark maintenance (18.88)
443	Amends § 402.5 of Ord. 434, residential district (Expired)
444	Purchase of housing project (Special)
445	(Repealed by 517)
446	Cable television franchise (Special)
447	(Repealed by 517)
448	Real estate transfer tax (3.12)
449	(Expired)
450	(Repealed by 517)
451	Historical boundaries and landmarks survey (18.86)
452	Adds § 101.1 and height-limit exception provisions to Art. II of Ord. 231 (18.30)
453	Underground utilities (18.96)
454	(Repealed by 518)
455	Appropriation (Special)
456	(Expired)
457	Amends Ord. 320 § 2.00, planning and zoning commission; repeals Ord. 365 (18.100)
458	(Repealed by 518)
459	(Expired)
460	(Expired)
461	(Expired)
462	Adds §§ 3.09(b) and 3.10(b) to Ord. 340, Uniform Building Code amendment (15.04)
463	(Expired)
464	(Expired)
465	(Expired)
466	Temporary structures in historic preservation district; adds § 704.5 to, amends § 702 of and repeals and replaces § 704.2 of Ord. 415, historic preservation district (18.18)
467	Adds definition to § 2 and adds § 3(D) to Ord. 235, mobile homes (18.90, 18.92)
468	(Repealed by 517)
469	(Expired)
470	Purchase of property (Special)
471	(Repealed by 518)
472	(Expired)
473	(Repealed by 517)
474	(Repealed by 517)
475	Changing of election precincts (2.04)
476	Occupations tax on short-term lodging and accommodations; repeals Ords. 383 and 407 (Repealed by 651)
477	Alley vacations (Special)
478	(Expired)
479	(Expired)
480	(Expired)
481	Sales and use tax; repeals Ords. 221 and 266 (3.08)
482	(Expired)
483	Second living units; amends § 404.1 of Ord. 434, residential district (Repealed by 725)
484	(Expired)
485	(Expired)
486	(Expired)
487	Repeals and replaces §§ 2 and 3 of Ord. 414, board of adjustment/appeals (18.36)
488	(Repealed by 518)
489	(Expired)
490	(Repealed 438)
490-A	Repeals and replaces § 5.07 of Ord. 231, commercial district density (18.12)
490-B	Appropriation (Special)
490-C	Amends 1982 budget (Special)
491	Amends 1982 budget (Special)
492	Amends §§ 201.32 and 703.8 of Ord. 231, zoning (18.04, 18.34)
493	Adds §§ 201.20.5 and 1203.2 to Ord. 231; amends § 1211.1, hotels (18.04, 18.20)
494	Street vacation (Special)
495	Amends 1982 budget (Special)

Ord. No.	
496	Amends 1982 budget (Special)
497	Amends § 201.1, accessory building, of Ord. 231 (18.04)
498	Adds § 501.15, amends § 501.14 and repeals and replaces § 501.23, commercial district, of Ord. 231 (18.12)
499	Amends 1982 budget (Special)
500	Adds §§ 703.9--703.13, parking, to Ord. 231 (18.34)
501	Alley vacation (Special)
502	(Repealed by 518)
503	Allocation of funds (Special)
504	Allocation of funds (Special)
505	Conflict of interest (2.08)
506	Amends 1982 budget (Special)
507	Amends 1982 budget (Special)
508	Allocation of funds (Special)
509	Allocation of funds (Special)
510	Transfer of property (Special)
511	Quitclaim deed (Special)
512	Waives for two years requirements of § 1001.4 of Ord. 231, accommodations district I (18.14)
513	Allocation of funds (Special)
514	Allocation of funds (Special)
515	Parking authority (18.102)
516	Amends 1982 budget (Special)
517	Town refuse code, water and sewer code and general provisions code adopted by reference; repeals Ords. 26, 28, 29, 31, 33-39, 41, 42A, 42B, 44, 47-49, 51, 53-57, 61, 63, 64, 66, 69--72, 74--76, 78, 81, 84--86, 88, 93, 96, 99, 109, 118, 124, 130, 131, 134, 135, 139--141, 145, 147, 149, 153, 155, 157, 163, 188, 190, 195, 197, 209, 213, 214, 216, 218, 221, 224, 233, 249, 251, 253, 259, 260, 263--265, 267, 280, 281, 285, 290, 291, 326, 331, 332, 343, 349, 350, 358, 367, 381, 382, 394, 412, 432, 437, 438, 445, 447, 450, 468, 473, 474 and 490; declares expired Ords. 27, 30, 32, 40, 43, 45, 46, 50, 52, 58--60, 62, 65, 67, 68, 73, 79, 80, 82, 83, 87, 89--92, 94, 95, 97, 98, 100--107, 110--117, 119--123, 125, 126, 228, 132, 133, 136, 138, 142, 151, 152, 158, 159, 161, 162, 164, 165, 168, 169, 171, 172, 174--178, 180, 183--185, 187, 189, 191, 192, 198, 202, 207, 210, 219, 222, 226, 230, 236, 237, 239, 243, 244, 252, 262, 279, 300, 325, 329, 334--337, 348, 354, 356, 357, 359, 363, 372, 373, 378, 380, 386, 390, 393, 396, 397, 399, 402, 426--428, 430, 431, 440, 449, 456, 459, 460, 461, 463--465, 469, 472, 478--480, 482, 484--486 and 489 (Not codified)
518	Offenses code of the town, criminal code of the state (1973), as amended, and Model Traffic Code for Colorado Municipalities adopted by reference; establishes various penalty provisions; repeals Ords. 77, 108. 127, 129, 146, 154, 160, 170, 179, 181, 200, 229, 232, 234, 240, 246, 250, 255, 256, 268, 272, 283, 301--305, 307, 317, 323, 333, 338, 339, 362, 410, 454, 458, 471, 488 and 502 (Not codified)
519	Amends § 402.5 of Ord. 434, accommodations uses in residential district (18.08)
520	Rezone (Special)
521	Amends 1982 budget (Special)
522	Amends 1982 budget (Special)
523	Amends 1982 budget (Special)
524	Alley vacation (Special)
525	Rezone (Special)
526	Real estate transfer and sales and use tax revenue bond anticipation notes (Special)
527	Equestrian services franchise (Special)
528	Amends 1982 budget (Special)
529	Amends 1982 budget (Special)
530	Amends § 404.1 of Ord. 434, second-unit housing, for two years (Repealed by 725)
531	Allocation of funds (Special)
532	Amends 1982 budget (Special)
533	Expenditure (Special)
534	Purchase and lease of property (Special)
535	Amends 1982 budget (Special)
536	Allocation of funds (Special)
537	Allocation of funds (Special)
538	Increases business license fees (Repealed by 651)
539	Amends §§ 703.9--703.13 of Ord. 500, parking (18.34)
540	Amends § 8-1 of the town water and sewer code (Repealed by 665)

Ord. No.	
541	Industrial development revenue bonds (Special)
542	Amends § 8-10 of the town water and sewer code (13.24)
543	Amends Ord. 415 § 708.1, historic preservation district (18.18)
544	Street vacation (Repealed by 640)
545	Amends 1982 budget (Special)
546	Amends 1983 budget (Special)
547	Allocation of funds (Special)
548	Proposes amendment of §§ 3.1, 4.1, 5.1, 5.3 and 5.4 of the Home Rule Charter (Special)
549	Proposes amendment of §§ 3.2 and 3.5 of the Home Rule Charter (Special)
550	Proposes amendment of § 3.4 of the Home Rule Charter (Special)
551	Roadway vacation (Special)
552	Allocation of funds (Special)
553	Adoption and amendment of uniform codes (15.04, 15.08, 15.12, 15.16, 15.20, 15,28)
554	Transfer of funds (Special)
555	Allocation of funds (Special)
556	Allocation of funds (Special)
557	Amends § 1306.190, engineer's report, of Ord. 422, subdivision (18.52)
558	Creates local improvement district (Special)
559	Gas franchise (Special)
560	Vacation of railroad right-of-way (Special)
561	Amends 1983 budget (Special)
562	Amends 1983 budget (Special)
563	Amends 1983 budget (Special)
564	Amends 1983 budget (Special)
565	Street vacation (Special)
566	Allocation of funds (Special)
567	Allocation of funds (Special)
568	Agreement for rehabilitation of certain historic properties (Special)
569	Allocation of funds (Special)
570	Adds §§ 703.14 and 703.15 to Ord. 539; amends § 703.9(b); repeals and replaces § 703.13, parking (18.34)
571	Transfer of funds (Special)
572	Allocation of funds (Special)
573	Allocation of funds (Special)
574	Allocation of funds (Special)
575	Allocation of funds (Special)
576	Allocation of funds (Special)
577	Allocation of funds (Special)
578	Allocation of funds (Special)
579	Conditional alley vacation (Special)
580	Adds § 13.05.090, cluster development, to Ord. 422, subdivisions (18.50)
581	Amends 1983 budget (Special)
582	Amends 1983 budget (Special)
583	Transfer of funds (Special)
584	Amends Uniform Building Code and adopts Uniform Sign Code (15.04, 15.28)
585	Allocation of funds (Special)
586	Amends 1983 budget (Special)
587	Increases certain business license fees (Repealed by 651)
588	Amends 1983 budget (Special)
589	Amends 1983 budget (Special)
590	Transfer of funds (Special)
591	Amends § 1104, site coverage in accommodations district II, of Ord. 231 (18.16)
592	(Number not used)
593	Amends Ord. 448 § 5b, real estate transfer tax (Repealed by 661)
594	Amends Ord. 481 § 22, sales and use tax (Repealed by 662)
595	Allocation of funds (Special)
596	Amends Ord. 448 § 6, real estate transfer tax (3.12)
597	Amends 1983 budget (Special)
598	Amends Ord 586, 1983 budget amendment (Special)
599	Amends 1983 budget (Special)
600	Amends 1983 budget (Special)
601	Amends 1983 budget (Special)
602	Business license, occupation tax and license fee provisions (5.04)
603	Amends 1983 budget (Special)
604	Amends 1983 budget (Special)
605	Grants easement (Special)
606	Engineering review costs (15.40)
607	Public improvements reimbursement policy (15.44)
608	Street vacation (Special)
609	Assessment for sidewalk improvement district (Special)

Ord. No.	
610	Proposes amendment of §§ 3.2 and 3.3 of the Home Rule Charter (Special)
611	Allocation of funds (Special)
612	Amends 1984 budget (Special)
613	Allocation of funds (Special)
614	Allocation of funds (Special)
615	Grants temporary easement (Special)
616	Creates river-park corridor treatment area (Special)
617	Repeals and replaces Ord. 258 § 205, planned unit development (18.26)
618	Annexation (Special)
619	Zones annexed land (Special)
620	Amends Ord. 231 to add special planned unit development district (18.06, 18.27)
621	Zones annexed land (Special)
622	Amends 1984 budget (Special)
623	Amends 1984 budget (Special)
624	Amends 1984 budget (Special)
625	Adopts Land Use Code (Not codified)
626	Amends 1984 budget (Special)
627	Adds § 7-1(1) to water and sewer code (Repealed by 650)
628	Amends 1984 budget (Special)
629	Amends 1984 budget (Special)
630	Amends 1984 budget (Special)
631	Grants license for building on San Juan Avenue (Special)
632	Amends §§ 18.08.170, 18.08.190 and 18.14.020, zoning (18.14)
633	Amends § 1 of Ord. 385, elections (2.04)
634	Amends §§ 18.18.220 and 18.18.300, zoning (18.18)
635	Authorizes certification of delinquent real estate transfer tax liens to county treasurer (3.12)
636	Grants easement for Oak Street Lift and Plunge Lift (Special)
637	Adopts design standards and construction specifications (15.36)
638	Amends § 7-0(2) of water and sewer code (13.20)
639	Allocation of funds (Special)
640	Right-of-way vacation and land conveyance; repeals Ord. 544 (Special)
641	Allocation of funds (Special)
642	Industrial development revenue bond issue (Special)
643	Temporary building permit moratorium (Special)
644	Alarm system registration; adds § 4-8(10) to offenses code (8.20)
645	Authorizes conveyance of the Silver Bell (Special)
646	Moratorium on sold-fuel-burning device installation (Special)
647	Allocation of funds (Special)
648	Write-in candidacies (2.04)
649	Amends Exhibit A of Ord. 642, bond issue (Special)
650	Increases water and sewer tap fees; repeals Ord. 627 (13.20)
651	Repeals § 3-9 of offenses code; repeals Ords. 1--3, 5--7, §§ 1 and 3--6 of Ord. 8, Ords. 9--11, 16, Art. I of Ord. 17, and Ords. 20 and 22--24 of 1901 ordinance compilation; repeals Ords. 1--9, 11, 16, Art. I of Ord. 17, Ords. 20--22, §§ 1, 3, 4, 5 and 6 of Ord. 23, and Ords. 24 and 25 of 1909 ordinance compilation; repeals Ords. 1--11, 17--21, §§ 1 and 3--6 of Ord. 22, and Ords. 24 and 25 of 1917 ordinance compilation; repeals Ords. 215, 238, 269, 282, 287, 324, 330, 341, 342, 344, 345, 360, 476, 538 and 587 (Repealer)
652	Repeals and replaces § 2-4 of water and sewer code (13.08)
653	General penalty; adds §§ 1-2, 1-3 and 3-1(6) to general provisions code; repeals and replaces § 1-1; repeals §§ 1-0(2), 1-0(3), 1-0(4), 1-1(13), 1-8(1) and 1-8(2) (1.04, 1.16)
654	Adds § 8-4(4) to offenses code (10.12)
655	Excise tax revenue bond issuance (Special)
656	Property conveyance (Special)
657	Urban growth area development agreement (Special)
658	Allocation of funds (Special)
659	Amends 1985 water fund budget (Special)
660	Amends 1985 sewer fund budget (Special)
661	Repeals Ord. 593 (Repealer)
662	Repeals Ord. 594 (Repealer)

Ord. No.	
663	Amends 1985 water fund budget (Special)
664	Amends 1985 sewer fund budget (Special)
665	Repeals and replaces prior code §§ 8-1(1)(a), 8-1(1)(b), 8-1(2)(a) and 8-1(2)(b), water and sewer rates (13.24)
666	Amendment to water fund to extend service (Special)
667	Lease/purchase agreement (Special)
668	Transient merchants; repeals Ords. 351 and 435 (5.12) (Repealed by 768 and 783)
669	Theater commission (2.20) (Repealed by 778)
670	Property conveyance (Special)
671	Amends Ord. 553, Uniform Fire Code and Uniform Fire Code Standards (Repealed by 718)
672	Establishes moratorium for the creation of time-share facilities (Special)
673	Grants easement for electric distribution (Special)
674	Amends 1985 water fund budget (Special)
675	Amends 1985 sewer fund budget (Special)
676	Lease of certain property (Special)
677	Solid-fuel burners; repeals Ord. 308 (8.12)
678	Street vacation (Special)
679	Property conveyance (Special)
680	Lease/purchase agreement (Special)
681	General obligation water and sewer bond issuance (Special)
682	Amends Ord. 677, solid-fuel burners (8.12)
683	Adds § 18.72.145, zoning (18.72)
684	Amends Ord. 553, Uniform Plumbing Code (15.08)
685	Amends 1985 economic diversification fund (Special)
686	Amends 1985 general fund budget (Special)
687	Time-share projects (18.104)
688	Amends 1985 capital improvement budget (Special)
689	Allocation of funds (Special)
690	Allocation of funds (Special)
691	Amends 1985 capital improvement budget (Special)
692	Amends 1985 capital improvement budget (Special)
693	Allocation of funds (Special)
694	Code adoption (1.01)
695	Hotel and restaurant liquor licenses (5.16)
696	Amends 1985 capital improvement budget (Special)
697	Lease agreement (Special)
698	Allocation of funds (Special)
699	Amends 1985 capital improvement budget (Special)
700	Allocation of funds (Special)
701	Hanggliding (9.24)
702	Allocation of funds (Special)
703	Allocation of funds (Special)
704	Amends 1985 capital improvement budget (Special)
705	Street vacation (Special)
706	Hotel and restaurant liquor licenses (5.16)
707	Amends 1985 sewer fund budget (Special)
708	Amends 1985 capital improvement budget (Special)
709	Amends 1985 capital improvement budget (Special)
710	Amends 1985 conservation fund budget (Special)
711	South Davis Street improvement project (Special)
712	Repeals and replaces §§ 1(c), 2, 4 and 9 of Ord. 602, business and occupation tax (5.04)
713	Cable television franchise (Special)
714	Condemnation proceedings (Special)
715	Amends 1985 water fund budget (Special)
716	Amends 1985 sewer fund budget (Special)
717	Amends 1985 general fund budget (Special)
718	Adds §§ 15.04.041, 15.04.042, 15.04.043, 15.16.041, 15.16.042, 15.16.043 and 15.20.021; repeals and replaces §§ 15.04.010, 15.04004, 15.12.010, 15.16.010, 15.16.040, 15.16.060, 15.20.010, 15.20.020 and 15.28.010, buildings and construction (15.04, 15.12, 15.16, 15.20, 15.28)
719	Amends 1986 capital improvement fund budget (Special)
720	Commission for arts and special events (2.24)
721	Equipment lease (Special)

Ord. No.	
722	Adds § 7.08.060(D), refuse collections; repeals § 7.16.050 (7.08)
723	Amends 1985 capital improvement budget (Special)
724	Adds § 4.8; repeals and replaces §§ 4.6, 4.10, 4.12(c), 4.17, 4.18, 7.7 and 9.2 of town Charter (Charter)
725	Adds Chap. 18.17, employee dwelling units; repeals §§ 18.08.170--18.08.210 (18.17)
726	Amends 1986 budget (Special)
727	Amends design standards and construction specifications (Special)
728	Amends 1986 capital improvement fund budget (Special)
729	Repeals and replaces Chap. 18.28, uses permitted on review (18.28)
730	Adds §§ 3.08.240(K) and (L), 3.08.252, 3.08.253, 3.08.255, 3.08.260, 3.08.265, 3.08.270, 3.08.275, 3.08.280, 3.08.285, 3.08.290, 3.08.295, 3.08.300, 3.08.305, 3.08.310, 3.08.315 and 3.08.320; repeals and replaces §§ 3.08.180 and 3.08.240(f), (I) and (J), use tax (3.08)
731	Festivals (12.12)
732	Repeals and replaces §§ 6.12.210, animals and 10.04.020, 10.08.010(c) and 10.12.040(A), traffic (6.12, 10.04, 10.08, 10.12)
733	Free water and sewer service for retired firefighters (13.24)
734	Adds to §§ 18.84.040 and 18.84.050, floodplain hazards (18.84)
735	Repeals and replaces § 6 of Ord. 677, solid-fuel burners (8.12)
736	Property acquisition (Special)
737	Amends Ord. 668, vending activities (Repealed by 768)
738	Repeals and replaces §§ 2.12.020, 2.16.030, 2.20.020, 2.24.020, membership qualifications (2.12, 2.16, 2.20, 2.24) (2.24.020 repealed by 861)
739	Lease of town property (Special)
740	Lease of Silverbelle (Special)
741	Bond for special improvement district (Special)

Ord. No.	
742	Amends 1986 capital improvement fund budget (Special)
743	Allocation of funds (Special) (Amended by 755)
744	Repeals and replaces Chap. 2.08, conflict of interest (2.08)
745	Allocation of funds (Special)
746	Adds § 3.08.185, sales tax rebate (3.08)
747	Advance refunding of excise tax bonds (Special)
748	Lease/purchase of equipment (Special)
749	Allocation of funds (Special)
750	Repeals and replaces § 5.04.090, business license violation and penalty (5.04)
751	Repeals and replaces § 8.12.050(b), rebate program (8.12) (Consolidated into 822)
752	Amends § 18.27.030(B), filing deadlines (18.27)
753	Allocation of funds (Special)
754	Amends 1986 general fund budget (Special)
755	Amends Ord. 743, allocation of funds (Special)
756	Increases conversion rebate; refers to Ords. 677 and 735 (8.12)
757	Allocation of funds (Special)
758	Advance refunding of water and sewer bonds (Special)
759	Amends § 9.20.010(D), (I) (J); adds § 9.20.020(O), definitions of knives (9.20)
760	Ratifies conveyance of old sewer lagoons (Special)
761	Allocation of funds (Special)
762	Extending Nugget Theatre lease (Special)
763	Amends Ords. 743 and 755, airflight commencement dates and terminal facility requirements
764	Amends §§ 8.12.020(A)(1), 8.12.020(A)(2), (3) and (4), 8.12.020(b), 8.12.040(E)(1), 8.12.050(A)(1) (8.12) (Consolidated into 822)
765	Amends 1987 capital improvement fund budget (Special)
766	Planning and zoning fees (Special)
767	HARC fees, 60-day demolition moratorium
768	Repeals Ords. 351, 435 and 668; repeals and replaces Chap. 5.12, transient merchant licenses (5.12) (Repealed by 783)

Ord. No.	
769	Submitting ballot question (Not ratified)
770	Amends Chap. 18.17, employee housing dwelling units (18.17)
771	Repeals and replaces §15.04.050, construction site cleanup (15.04)
772	Amends building and mechanical permit fee schedules (Special)
773	Amends 1987 sewer fund budget (Special)
774	Adds Chap. 5.17, Admissions Tax (5.17)
775	Agreement for satellite dish (Special)
776	Extends demolition moratorium (See 767) (Special)
777	Lease for equipment at water tanks (Special)
778	Repeals Ord. 669, 2.20, amends §§ 2.24.020, 2.24.030, 2.24.060(B) (2.20, 2.24) (Amendments repealed by 861)
779	Amends §§ 18.100.040, 18.100.050, 18.18.120, HARC and P&Z membership (18.18, 18.100)
780	Amends §§ 18.36.020, 18.36.030, 18.36.040, 18.36.070 and 18.36.090, board of adjustment/appeals (18.36)
781	Adds Chap. 8.03, clean air act (8.03) (Repealed by 802)
782	Amends Idarado budget (Special)
783	Repeals Ords. 351, 435, 668 and 738; repeals and replaces Chap. 5.12, transient merchant license (5.12)
784	Issuance of excise tax revenue bonds (Special)
785	Stays effective date of Ord. 781, clean air (8.03) (Amended by 793; repealed by 802)
786	Adds §§ 7.04.075 and 7.20.090; amends 7.12.030 and 7.12.060; repeals and replaces §§ 7.20.090 (7.04, 7.12, 7.20)
787	Creating South Backman Village Improvement District (Special)
788	Allocation of funds (Special)
789	Allocation of funds (Special)
790	Allocation of funds (Special)
791	Allocation of funds (Special)
792	Diesel fuel tank location (Special)
793	Extends effective date of Ord. 785, clean air act (8.03) (Repealed by 802)
794	Annexation (Special)
795	Annexation (Special)
796	Easement grant (Special)
797	Amends §§ 8.12.020, 8.12.030, 8.12.040 and 8.12.050, solid-fuel-burning devices (8.12) (Consolidated into 822)
798	Zones annexed land (Special)
799	Zones annexed land (Special)
800	Repeals and replaces § 18.08.040, short-term rentals in residential zone (18.08)
801	Amends § 5.04.020, short-term rentals (5.04)
802	Amends Chap. 8.03, clean air act; repeals Ords. 781, 785 and 793 (8.03)
803	Amends Title 18, parking requirement payments (18.)
804	Repeals § 3.12.060(P), renumbers subsequent paragraphs (3.12)
805	Provides for refund claim procedure for unclaimed use tax (Not codified)
806	Provides for refund claim procedure for unclaimed clean-up bonds (Not codified)
807	Approves lease agreement (Special)
808	Authorizes loan security release (Special)
809	Authorizes property conveyance (Special)
810	Adds Chap. 3.17, Investments and Deposits (3.17)
811	Amends 1987 capital improvement fund budget (Special)
812	Amends § 3.08.185(C) and § 1, Ord. 746, sales tax rebate (3.08)
813	Extends accommodations treatment areas (Special)
814	Reinstates zoning (Special)
815	Adds Chap. 18.03, Vested Real Property Rights (18.03)
816	Authorizes revocable encroachment permit (Special)
817	Adopts amended Land Use Code (Title 18)
818	Adds Chap. 8.21, Building Street Addresses and Emergency Telephone Information (8.21)
819	Amends 1988 general fund budget (Special)
820	Adds § 8.03.020(J), (K) and (L); repeals § 8.03.050(E)(3); amends § 8.03.070(B) (8.03)
821	Adds Chap. 5.15, Liquor Licensing (5.15)
822	Consolidates and recodifies Ords. 756, 764 and 797 into Chap. 8.12, Solid-Fuel Burners (8.12)
823	1983 local improvement district, assessment roll error (Special)
824	Allocation of funds (Special)

Ord. No.	
825	Allocation of funds (Special)
826	Amends Chaps. 18.07, 18.28, 18.29, 18.02 processes, fees and waivers (18.07, 18.28, 18.29, 18.02)
827	Adds Chap. 2.25, Town Council sub-committees (2.25)
828	Authorizes agreement (Special)
829	Amends § 8.12.040(G), solid-fuel burners, to correct clerical error (8.12)
830	Zones land (Special)
831	Annexation (Special)
832	Levies assessment in improvement district (Special)
833	Amends § 10.08.040(C); adds §§ 10.08.070, 10.08.080 and 10.08.090 parking, impoundment and violations (10.08)
834	Temporary development restriction (Special) (Extended by 862)
835	Right-of-way easement (Special)
836	Annexation and zoning (Special)
837	Annexation (Special)
838	Zones annexed land (Special)
839	Authorizes encroachment revocable permit (Special)
840	Approves land exchange agreement (Special)
841	Designates certain structures as local landmarks (Special)
842	Approves conveyance of property (Special)
843	Amends Chaps. 18.03 Vested Real Property Rights, and 18.25 Historic Preservation (18.03, 18.25)
844	Authorizes lease (Special)
845	Lease (Special)
846	Amends Chap. 18.25, including handbook (18.25)
847	Allocation of funds (Special)
848	Temporarily reduces water fees under § 13.20.030; amends Chap. 13.20 and §§ 13.24.010, 13.24.020, 13.24.200, rates and fees (13.20, 13.24)
849	Authorizes sale of property (Special)
850	Easement agreement (Special)
851	Amends § 3.08.185(C), sales tax rebate (3.08)
852	Adds Chap. 15.05, Uniform Code for Building Conservation (15.05)
853	Amends 1989 budget (Special)
854	Amends Title 18, Division V, geologic and floodplain hazard control
855	Improvement district improvement assessment (Special)
856	Amends Chap. 18.22 Utilities (18.22)
857	Amends 1989 capital improvement fund budget (Special)
858	Approves agreement (Special)
859	Repeals Chap. 15.16 Uniform Fire Code (15.16)
860	Amends 1989 capital improvement fund budget (Special)
861	Amends Chap. 2.24, Commission for Arts and Special Events (2.24)
862	Extends temporary development restriction (See 834) (Special)
863	Amends 1989 budget (Special)
864	Adds Chap. 18.23, Hillside Developing District Two (18.23)
865	Partial street vacation, alley encroachment (Special)
866	Adds Chaps. 18.13 and 18.19, new zone districts (18.13, 18.19)
867	Amends Chap. 18.25, adopts Historic Landmark District, amends zoning map (18.25)
868	Amends Chaps. 18.12, 18.16, 18.31 and 18.04, miscellaneous amendments (18.12, 18.16, 18.31, 18.04)
869	Amends Chap. 18.18, miscellaneous revisions (18.18)
870	Proposed Charter amendment to vote of electors (Charter)
871	Amends 1989 capital improvement fund budget (Special)
872	Purchase of land, appropriation of funds (Special)
873	Amends Chaps. 18.05, 18.06 and 18.29, to conform and incorporate amendments (18.05, 18.06, 18.29)
874	Rezone (Special)
875	Rezone (Special)
876	Conveyance of easement (Special)
877	Appropriation of funds (Special)
878	Revocable permit issuance (Special)

Ord. No.	
879	Revocable permit issuance (Special)
880	Repeals § 3.12.060(F); recodifies Chap. 3.12, real estate transfer tax (3.12)
881	Adds Chap. 3.20, lodging tax (3.20)
882	Amends Chap. 18.14, floodplain hazard control (18.14)
883	Allocation of funds (Special)
884	Amends §§ 13.24.010, decreasing water charges, and 13.24.020, increasing sewer charges (13.24)
885	Amends 1990 budget (Special)
886	Amends Chap. 18.25, historic preservation overlay district (18.25)
887	Approves agreement and amendment (Special)
888	Real property acceptance and conveyance (Special)
889	Revises and re-enacts Chaps. 15.04 Uniform Building Code, 15.12 Uniform Code for the Abatement of Dangerous Buildings, 15.20 Uniform Mechanical Code, 15.28 Uniform Sign Code, 15.48 Enforcement of Uniform Codes; repeals Chap. 15.08, Uniform One- and Two-Family Dwelling Code (15.04, 15.08, 15.12, 15.20, 15.28, 15.48)
890	Amends Chap. 15.44 public improvements reimbursement; amends § 13.12.070 tap main or trunk line extension (15.44, 13.12)
891	Adds § 1.16.065, municipal court of record (1.16)
892	Approves agreement (Special)
893	Amends 1990 capital fund budget (Special)
894	Extends electric power franchise (Special)
895	Increases salaries, amends 1990 budget (Special)
896	Increases Marshal's housing allowance, amends 1990 budget (Special)
897	Utilities easement (Special)
898	Creates and funds improvement district, amends 1990 capital improvement fund budget (Special)
899	Funding of new positions, amends 1990 budget (Special)
900	Amends 1990 general and capital fund budgets (Special)
901	Dedication of land (Special)
902	Authorizes lease purchase agreement (Special)
903	Amends 1990 capital and general fund budgets (Special)
904	Approves pre-annexation agreement (Special)
905	Allocation of funds (Special)
906	Amends §§ 2.12.020 Environmental Commission; 2.16.030 Parks and Recreation; 2.24.020, 2.24.030 and adds §§ 2.24.040 C.A.S.E.; 18.25.060, 18.25.070, 18.25.120 H.A.R.C.; 18.36.030 B.O.A.; 18.100.020, 18.100.030, 18.100.050 P&Z (2.12, 2.16, 2.24, 18.25, 18.36, 18.100)
907	Allocation of funds (Special)
908	Reduces interest rate (Special)
909	Sewer connection agreement (Special)
910	Amends Chaps. 18.08 Hillside Transitional; 18.10 Residential District; 18.04 Definitions; 18.06 Uses of Land and Development Standards (18.04, 18.06, 18,.08, 18.10)
911	Amends Chaps. 18.13 Historic Residential District; 18.04 Definitions; 18.06 Uses of Land and Development Standards (18.04, 18.06, 18.13)
912	Amends Chap. 18.14, Accommodations District II (18.14)
913	Revenue bonds (Special)
914	Creates Municipal Electric Utility Board (Special)
915	Amends Chap. 18.06 Uses of Land and Development Standards (18.06)
916	Amends contract (Special)
917	Amends Chap. 12.12 Major Festival Events in Town Park (12.12)
918	Amends 1991 Capital Fund Budget (Special)
919	Amends Chap. 13.24 Sewer Charges (13.24)
920	Appropriation of admissions tax, amends 1991 General Fund Budget (Special)
921	Funds allocation and budget amendments (Special)
922	Adds Chap. 8.22 Emergency Telephone Service and amends budget (8.22)

Ord. No.	
923	Adds Chap. 18.41 Moving and Demolition, amends Chap. 18.25 Historic Preservation Overlay District (18.25, 18.41)
924	Amends Chaps. 18.02 General Provisions, 18.03 Vested Real Property Rights, 18.04 Definitions, 18.06 Uses of Land and Development Standards, 18.07 Supplemental Regulations, 18.08 Hillside-Transitional District, 18.10 Residential District, 18.11 Medium Density Residential District, 18.12 Accommodations District I, 18.13 Historic Residential, 18.14 Accommodations District II, 18.16 Residential/Commercial District, 18.18 Commercial District, 18.19 Historic Commercial, 18.24 Park District, 18.30 Uses Permitted on Review, 18.31 Employee Dwelling Units and 18.40 Amendments (18.02, 18.03, 18.04, 18.06, 18.07, 18.08, 18.10, 18.11, 18.12, 18.13, 18.14, 18.16, 18.18, 18.19, 18.24, 18.30, 18.31, 18.40)
925	Funds allocation (Special)
926	Amends Title 7, Refuse (Title 7)
927	Funds allocation (Special)
928	Amends 1991 Capital Improvement Fund Budget (Special)
929	Amends Chaps. 18.27 Designation and Maintenance, 18.25 Historic Preservation Overlay District (18.25, 18.27)
930	Pre-annexation, utility and hydropower lease agreements (Special)
931	Amends 1991 Capital Fund Improvement Budget (Special)
932	Amends Chaps. 18.23 Hillside Developing District Two, 18.25 The Historic Preservation Overlay District, 18.29 Planned Unit Development Process, 18.30 Uses Permitted on Review, 18.34 Parking Payment in Lieu, 18.40 Amendments, 18.46 Permits and Fees, 18.52 The Subdivision Review Process, 18.55 Condominium Subdivision, 18.72 Annexations, and 18.100 Planning and Zoning Commission (18.23, 18.25, 18.29, 18.30, 18.34, 18.40, 18.46, 18.52, 18.55, 18.72, 18.100)
933	Amends Municipal Electric Utility Board ordinance (Special)
934	Amends Chap. 18.23 Hillside Developing District II (18.23)
935	Alley vacation (Special)
936	Extends franchise (Special)
937	Amends § 9.16.040 Public Drinking - Possessing Open Alcohol Container (9.16.)
938	Amends 1991 Water Fund Budget (Special)
939	Amends 1991 Sewer Fund Budget (Special)
940	Amends 1991 Budget (Special)
941	Amends Chap. 18.25 Historic Preservation Overlay District (18.25)
942	Repeals Chap. 2.08 Conflict of Interest, Adds Chap. 4.18, Ethics Code (2.08, 4.18)
943	Amends Chap. 18.02 The Development Review Process (18.02)
944	Amends 1991 Capital Fund Budget (Special)
945	Rezone (Special)
946	Amends Chap. 12.12 Major Festival Events in Town Park (12.12)
947	Amends Chap. 5.17 Admissions Tax (5.17)
948	Amends Chaps. 18.04 Definitions, 18.06 Use of Land and Development Standards, 18.08 Hillside Transitional, 18.10 Residential, 18.13 Historic Residential, and 18.29 The Planned Unit Development Process (18.04, 18.06, 18.08, 18.10, 18.13, 18.29)
949	Land acquisition (Special)
950	Amends Title 13, Water and Sewers (13.20, 13.24)
951	Amends Chap. 13.24, increases sewer charges (13.24)
952	Pandora Avenue Improvement District (Special)
953	Conveyance of Town property (Special)
954	Repeals Chap. 5.12 Transient Merchant License, adds Chap. 5.12 Vending (5.12)
955	Amends Chaps. 18.06 Uses of Land and Development Standards, 18.14 Accommodations District Two, 18.18 Commercial District, 18.19 Historic Commercial (18.06, 18.14, 18.18, 18.19)

Ord. No.	
956	Amends Chaps. 2.12 Environmental Commission, 2.16 Parks and Recreation Commission, 2.24 Commission on Arts and Special Events, 4.18 Ethics Commission (2.12, 2.16, 2.24, 4.18)
957	Amends 1992 General Fund, Water Fund, Sewer Fund, Capital Improvements Fund and E-911 Fund Budgets (Special)
958	Designates local landmark (Special)
959	Allocation of funds (Special)
960	Amends §§ 13.04.090 Definitions, 13.24.220 Senior Citizen Discount, 13.24.010 Rates-Water, 3.08.185 Sales Tax Rebate on Food (3.08, 13.14, 13.24)
961	Amends 1992 Capital Fund (Special)
962	Amends § 13.20.030 Fee Schedule (13.20)
963	Adds Chap. 3.24 Unclaimed Property (3.24)
964	Adds § 13.24.216, Free Service for Emergency Medical Technicians (13.24)
965	Extends franchise (Special)
966	Amends Chaps. 18.05 Districts and Maps, 18.06 Uses of Land and Development Standards, 18.14 Accommodations District Two, 18.18 Commercial District, and 18.19 Historic Commercial (18.05, 18.06, 18.14, 18.18, 18.19)
967	Amends 1992 Budget (Special)
968	Amends agreement (Special)
969	Authorizes bond issue (Special)
970	Amends and recodifies Title 18 and enacts Chap. 15.50 (15.50, 18)
971	Adds Chap. 2.13 Commission for Environmentally Efficient Transportation (2.13)
972	Adopts PM 10 Plan (Special)
973	Amends 1992 and 1993 Budgets (Special)
974	Adds Civil Rights (11)
975	Amends Land Use Code §§ 2-138 Floor Area or Gross Floor Area, 3-105 Table 3-2, 3-109 Table 3-4, 3-212 Commercial Zone District, 3-213 Historic Commercial Zone District, 6-304 Variation of Dimensional Limitations (2-138, 3-105, 3-109, 3-212, 3-213, 6-304)
976	Amends § 13.24.020 (13.24)
977	Amends Land Use Code §§ 3-212 Commercial District, and 3-213 Historic Commercial Zone District (3-212, 3-213)
978	Amends 1993 Capital Improvement Fund Budget (Special)
979	Amends Ord. 978 (Special)
980	Right-of-way relocation (Special)
981	Extends electric franchise (Special)
982	Amends budget (Special)
983	Alley vacation (Special)
984	Amends budget (Special)
985	Amends Land Use Code; adopts Appendix definitions (2-110, 2-138, 2-143, 2-189, 2-194)
986	Amends Land Use Code, adopting Design Guidelines, amends 2-311 (2-311)
987	Extends closing deadline for Rainbow Preschool Building (Special)
988	Amends Charter re mail ballot voting (Charter 2.4, 2.9, 6.6, 5.5, 3.5)
989	Grants electric franchise (Special)
990	Amends §§ 2.13.030, Membership, 2.13.030, Qualifications, re Commission for Environmentally Efficient Transportation (2.13)
991	Creates Open Space Commission, adds Chap. 2.26 (2.26)
992	Amends Land Use Code 3-211 Gondola Corridor Overlay District (3-211)
993	Preannexation agreement waiver (Special)
994	Conveys land (Special)
995	Repeals Chap. 3.20 Lodging Tax (3.20)
996	Amends § 5.04.030, use of business license fee proceeds (5.04)
997	Extends vested real property rights (Special)
998	Alley vacation (Special)
999	Amends § 13.24.020, sewer charges (13.24)
1000	Adds §§ 3.08.070, revenue dedication, 3.08.170, revenue dedication, 3.12.030 revenue dedication, Chap. 3.30 Property Tax (3.08, 3.12, 3.30)
1001	Amends §§ 5.12.020, 5.12.030, 5.12.040, mobile vending (5.12)
1002	Grants electric power utility franchise (Special)
1003	Amends § 2.16.030, Parks and Recreation Commission membership (2.16)
1004	Accepts part of Highway 145 (Special)

Ord. No.	
1005	Amends Land Use Code (1-105, 1-202, 1-302, 1-304, 2-101, 2-109, 2-110, 2-116, 2-119, 2-124, 2-128, 2-135, 2-142, 2-146, 2-152, 2-154, 2-160, 2-168, 2-170, 2-177, 2-199, 2-200, 2-205, 2-206, 2-215, 2-351, 3-101, 3-105, 3-109, 3-201, 3-203, 3-204, 3-209--3-213, 3-306, 3-401, 3-402, 3-405, 3-601, 5-103, 5-201, 5-203--5-210, 6-102, 6-104--6-108, 6-111, 6-113, 6-114, 6-201, 6-202, 6-204, 6-301--6-307, 6-309, 6-311--6-314, 6-401--6-410, 6-412--6-415, 6-501--6-504, 7-103, 7-106--7-108, 7-201--7-209, 7-211--7-217, 7-302--7-307, 7-403, 7-504, 7-506, 7-603, 7-604, 7-606, 7-607, 7-609, 7-702, 7-705--7-707, 9-106, 9-207)
1006	Street vacation (Special)
1007	Amends Land Use Code Articles 2 and 3
1008	Amends budget (Special)
1009	Authorizes extraterritorial utility line extensions (Special)
1010	Amends Charter 2.4 residency requirements for electors (Ch. 2.4)
1011	Amends Land Use Code, adds Art. 3, Div. 7 Affordable Housing Requirements, amends §§ 2-105A, 3-201--3-206, 3-209--3-213, Table 5-1, Table 5-3, 5-210, 6-103, 6-105
1012	Amends Land Use Code, adds Art. 6, Div. 8, Temporary Uses and Structures; repeals § 7-214 (6-801--6-812, 7-214)
1013	Adds Chap. 8.05, Use of Vehicles as Residences (8.05)
1014	Repeals §§ 13.08.050, 13.24.120, 13.24.130, amends §§ 13.08.120, 13.08.150, 13.16.050, repeals and readopts Chap. 13.28, adds Chap. 13.30, Water Conservation Code (13.08, 13.16, 13.24, 13.28, 13.30)
1015	Amends Clean Indoor Air Act §§ 8.03.020, 8.03.030, repeals § 8.03.040 Structural Modifications Not Required, amends and renumbers § 8.03.050 as § 8.03.040 Regulation of Smoking in Places of Employment; amends and renumbers § 8.03.060 as 8.03.050 Posting of Signs, amends and renumbers § 8.03.070 as 8.03.060 Exceptions and Variances, renumbers § 8.03.080 as 8.03.070, Enforcement (8.03)
1016	Amends § 13.24.020, increases sewer service rates (13.24)
1017	Increases compensation Mayor and Councilpersons (Special)
1018	Amends Chap. 3.08, adds 0.5% sales and use tax for affordable housing, §§ 3.08.070, 3.08.130, 3.08.160, 3.08.170, 3.08.180, 3.08.190. 3.08.200, 3.08.210 (3.08)
1019	Authorizes issuance of general obligation water and sewer bonds (Special)
1020	Amends § 2.26.020, Powers and Duties of Open Space Commission (2.26)
1021	Amends budget (Special)
1022	Annexation (Special)
1023	Land Use Code amendments (2-311, 3-102, 3-104, Table 3-1, new 3-218, 6-304)
1024	Rezoning (Special)
1025	Adds § 1.04.210 Extraterritorial Jurisdiction (1.04)
1026	Adds § 9.12.070 Camping and Activities on Municipal Property (9.12)
1027	Adds § 9.12.180, Cutting, Removal or Relocation of Trees (9.12)
1028	Easement acceptance, vacation (Special)
1029	Amends budget (Special)
1030	Amends budget (Special)
1031	Amends § 13.20.030, sewer service tap fees (13.20)
1032	Annexation (Special)
1033	Land Use Code amendments (1-105, 1-302, 2-125, 3-110, 3-209--3-213,3-720, 3-730, 3-740, 3-750, 3-770, 5-207, 5-210, 6-105, 6-106, 6-114, 6-115, 6-304, 6-309, 6-412, 6-604, 7-105, 7-203, 7-302, 7-403, 7-504)
1034	Amends Charter § 3.4 Compensation (Ch. 3.4)
1035	Amends budget (Special)
1036	Land dedication (Special)
1037	Repeals 15.48; repeals and reenacts Chap. 15.04, Uniform Building Code; Chap. 15.05, Uniform Code for Building Conservation; Chap. 15.12, Dangerous Building Code; Chap. 15.20, Uniform Mechanical Code; Chap. 15.28, Uniform Sign Code; Chap. 15.32, Energy Efficiency and Performance Codes; 15.36, Design Standards and Construction Specifications; §§ 15.40.020, payment; 15.50.020,

Ord. No.	
	15.120, 15.50240, Board of Adjustment and Appeals; adds Chap. 15.16, Fire Code; amends Land Use Code § 18-6-404 (15,04, 15.05, 15.12, 15.16, 15.20, 15.28, 15.32, 15.36, 15.40, 15.48)
1038	Repeals, reenacts § 10.12.050A Fees (10.12)
1039	Amends §§ 13.24.010, 13.24.020, increases water and sewer service rates (13.24)
1040	Land Use Code amendments re fee schedules (5-292, 5-207, 5-210, 6-114, 6-410, 6-703, 7-706, 8-303)
1041	Adds Chap. 1.13, Franchise Applications (1.13)
1042	Repeals and reenacts Title 7, Refuse (7)
1043	General obligation bonds (Special)
1044	Amends §§ 13.12.060, 13.12.110, 13.20.030, 13.24.010, 13.24.020, taps, tap fees, service charges (13.12, 13.20, 13.24)
1045	Amends budget (Special)
1046	Amends § 5.15.010, adds Chap. 5.17 Liquor Licensing Authority (5.15, 5.17)
1047	Excise tax revenue refunding bonds (Special)
1048	Amends § 1.16.110, adds § 1.16.140 Authority to Assess Costs, repeals and reenacts Chap. 10.04, Model Traffic Code (1.16, 10.04)
1049	Amends § 2.04.010, election precincts (2.04)
1050	Land Use Code amendments, 7-502
1051	Amends § 15.04.020, Building Code amendments (15.04)
1052	Amends §§ 8.12.030, 8.12.040, 8.12.050, solid fuel burning devices; repeals § 8.12.060, renumbers §§ 8.12.070--8.12.100 as §§ 8.12.060--8.12.090 respectively (8.12)
1053	Water and sewer service extension (Special)
1054	Adds Chap. 13.26, Cross-Connection and Backflow Prevention (13.26)
1055	Amends budget (Special)
1056	Grants cable television franchise (Special)
1057	Repeals and reenacts Title 6 Animals (6.04, 6.08, 6.12)
1058	Amends §§ 1.16.020, 1.16.030, 1.16.070, 1.16.080, 1.16.090, 1.16.110, 1.16.120, 1.16.130 decriminalizing penalties, adds § 1.16.150 Community Service, repeals and reenacts §§ 10.04.050, 10.04.060, amends §§ 10.04.070, 10.08.090, 10.12.040, 10.12.050, 10.12.070, traffic penalties and assessments (1.16, 10.04, 10.08, 10.12)
1059	Land Use Code amendments (2-145, 3-108, 3-109, Table 3-4, 3-209, 3-210, 3-302, 3-750, 3-760, 5-208, 5-209, 6-307--6-311, 6-407, 7-201, 7-205--7-209, 7-211, 7-212, 8-626)
1060	Rezoning (Special)
1061	Street vacation (Special)
1062	Amends Chap. 5.04 Business License Fees (5.04)
1063	Amends § 15.04.020, Building Code amendments (15.04)
1064	Adds Chap. 1.18, Procedures for Noncriminal Violations (1.18)
1065	Amends § 8.12.040, solid fuel burners (8.12)
1066	Amends Chap. 5.17, Admissions Fee for Festivals and Events (5.17)
1067	Repeals § 3.08.165, sales tax rebate on food (3.08)
1068	Excise tax revenue bonds (Special)
1069	Land Use Code amendments, historic alleys (7-2, 7-401, 7-402)
1070	Amends § 10.04.050, parking restrictions (10.04)
1071	Land Use Code amendments (2-132, 3-1, 3-2, 3-3, 3-4, 5-1, 5-2, 6-4, 7-2, 9-1)
1072	Amends preannexation agreement (Special)
1073	Amends budget (Special)
1074	Repeals § 13.24.160, amends §§ 13.24.010, 13.24.020, water and sewer service charges (13.24)
1075	Amends 13.24.310
1076	Repeals 2.12, “Environmental Commission”
1077	Repeals 2.13, “Commission for Environmentally Efficient Transportation”
1078	Adopts the 1997 Recodification of the Home Rule Charter and Municipal Code
1079	Budget (Special)
1080	Amends 1.04 by addition of new subsection 1.04.220
1081	Amends 6.12.050, leashing of dogs
1082	Special
1083	Special
1084	Special

Ord. No.	
1085	Land Use Code Amendments: Article 2, Division 3
1086	Amends Title 9 by the addition of new section 9.16.080
1087	Amends §3.12.010; 3.12.050; 3.12.060; 3.12.070; 3.12.090; 3.12.150; 3.12.170; 3.12.200
1088	Special
1089	Special
1090	Amends §2.26.020.F
1091	Amends §13.20.030
1092	Amends Land Use Code § 2-129; 2-146; 2-159; 2-199;Tables 3-1, 3-4, 6-1; 3-209; 3-210; 3-211; 3-212; 3-213; 6-114; 6-301; 6-304; 6-413
1093	Special
1094	Special
1095	Amends Land Use Code Article 2, Division 1; Article 8, adding a new Division 7, "Groundwater Protection"
1096	Amends Title 13 at §13.20.030.b, 13.24.010, 13.24.020 and 13.24.200
1097	Amends Title 10 by the addition of a new §10.08.060, "Centerlane Commercial Loading Zone"
1098	Amends Title 15, Chapters 15.04 and 15.20
1099	Special
1100	Special
1101	Special
1102	Amends Title 15, Chapters 15.04, 15.05, 15.12, 15.20, 15.28, 15.32 and adding a new Chapter 15.35
1103	Amends Title 15 by the addition of a new Chapter 15.14, "Uniform Electrical Code"
1104	Amends Title 2, Chapter 2.04
1105	Special
1106	Amends Land Use Code §2-139; 3-201; 3-209;3-210; 3-211;3-212;3-213;3-740;3-750;3-795;6-105;6-201; 6-202; 6-205; 6-403; 6-406; 7-108; 7-203;7-206; 7-211; 7-302; 7-303; 7-403; Tables 3-4, 5-1, 5-2 and 5-3
1107	Special
1108	Special
1109	Amends Title 1 by the addition of Section 1.04.230
1110	Amends Sections 13.24.010; 13.24.020 and 13.24.200
1111	Special
1112	Amends Land Use Code §3-301;3-302;6-408; 6-409; 2-166;; 3-210; 3-212; 3-213; 3-216; 5-207; 7-105; 7-205;7-207; 7-208; 6-408; 8-604
1113	Amends Title 15 by the addition of a new Chapter 15.15
1114	Special
1115	Amends Title 12 by the addition of a new Chapter 12.06
1116	Amends Land Use Code §2-409; 2-427; 2-431; 2-444; 8-622;8-624
1117	Amends Sections 2.26.010 and 2.26.020
1118	Special
1119	Repeals and reenacts Chapter 5.12, "Vending"
1120	Special
1121	Special
1122	Amends §§13.24.010; 13.24.020; 13.24.200
1123	Special
1124	Amends §§5.04.100
1125	Amends §§4.18.020; 4.18.180; 4.18.190; 2.16; 2.24; 2.26;15.50; Land Use Code §§ 9-102.B; 9-102.C; 9-202.B; 9-202.C; and adding a new Chapter 2.30
1126	Special
1127	Amends §§1.16.140;6.04.010.D;6.12.020; 6.12.090; 10.04.050; 10.04.070
1128	Special
1129	Amends §2.30.040; adds new section §4.18.260
1131	Amends §4.18.030; 4.18.060
1132	Amends §13.12.060 and 13.20.060
1133	Special
1134	Special
1135	Special
1136	Special
1137	Amends §10.04 and §10.12
1138	Amends §1.30.030
1139	Special
1140	Amends §13.20 and §13.24.200
1141	Special
1142	Special
1143	Special
1144	Amends §10.04
1145	Amends Land Use Code Article 3, Divisions 1, 2 and 7; Article 5 at Division 2; Article 6 Divisions 1 and 3; Article 7 Divisions 1, 2 and 5
1146	Amends Titles 6 and 7
1147	Special
1148	Special
1149	Special

Ord. No.	
1150	Special
1151	Amends §8.08.020
1152	Adds new Chapter 3.05, "Payment Reports"
1153	Special
1154	Special
1155	Special
1156	Special
1157	Special
1158	Amends Title 18, Land Use Code
1159	Amends Section 10.04.050
1160	Special
1161	Amends Chapter 3.12 "Real Estate Transfer Tax" to Include an Exemption for Affordable Housing Units
1162	Special
1163	AmendsTitle 18, "Telluride Land Use Code" of the Telluride Municipal Code at Article 2, "Definitions", Article 3, "Zone District Regulations" at Division 2 "Zone District Purposes and Standards", and Article 7, "Historic and Architectural Review" at Division 2, "Alteration, Addition, and Erection" with all Changes Facilitating the Permitting of Wireless Telecommunications Equipment
1164	Amends Chapter 12.04 to Provide for Additional Remedies Against Persons for Failure to Remove Ice and Snow From Sidewalks
1165	Special
1166	Special
1167	Special
1168	Special
1169	Amends Chapter 7.12, "Collection Requirements" to Require that Wildlife Resistant Refuse Containers be Secured Except When Not in Use.
1170	Amends §5.12.040.B.1; Vending areas
1171	Special
1172	Special
1173	Special
1174	Special
1175	Special
1176	Special
1177	Amends Title 18 of the Telluride Municipal Code, "The Telluride Land Use Code" to Facilitate Placement of Renewable Energy Fixtures and Equipment in the Commercial Zone District and the Historic Commercial Zone District
1178	Special
1179	Amending Telluride Municipal Code Chapter 5.12 "Vending" to Add Criteria for Selection; to Add One Vending Site on South Oak Street/San Juan Avenue Area; To Authorize the Vending Subcommittee to Select Vendors; and to Make Additional Miscellaneous Changes Throughout the Chapter
1180	Special
1181	Amends Title 4, "Ethics Code" of the Telluride Municipal Code by the Addition of a New Section 4.18.115
1182	Special
1183	Repealing and Reenacting Section 5.15.060 "Distance Requirements" of the Telluride Municipal Code Establishing Restrictions on the Issuance of Liquor Licenses in Areas Near to Public and Private Schools
1184	Amends Telluride Municipal Code At Title 13, "Water and Sewers" At Chapter 13.20 Increasing Water And Sewer Service Rates And Section 13.24.200 Increasing A Surcharge For Out-Of-Town Users
1185	Special
1186	Amends Title 6, "Animals" Concerning Dogs
1187	Amends Chapter 5.18, "Admissions Fee for Festivals and Events
1188	Amends Title 18, Land Use Code at Article 6, Division 6, Annexations
1189	Amends Title 2 enacting an Ecology Commission
1190	Special
1191	Addition of New Title 17, "Procurement Code"
1192	Special
1193	Amends LUC, Article 6, Division 6
1194	Amends Title 10, Chapter 10.08 and 10.12
1195	Amends Title 18, LUC at Article 2, Article 3 and Article 6
1196	Reenacts Title 13, "Water and Sewer"
1197	Special
1198	Amends Title 18, LUC at Article 3 and Article 4
1199	Special
1200	Special
1201	Special
1202	Amends Title 3 at Chapter 3.16 and 3.12

1203 Amends Title 15 Repealing and ReEnacting Chapter 15.32 "Energy Efficiency and Environmentally Responsible Building Code
1204 Special
1205 Special
1206 Special
1207 Special
1208 Amends Title 3 by the addition of a new Chapter 3.40, Lodging, Food and Beverage Excise Tax
1209 Special
1210 Amends Land Use Code, new 3-219
1211 Special
1212 Special
1213 Amends Land Use Code; site coverage
1214 Special; SMPA franchise agreement
1215 Special; Water/Sewer tap fees
1216 Amends Section 5.12.030, 5.12.040 and 5.12.040
1217 Special; Water/Sewer tap fees
1218 Amends Land Use Code; signs
1219 Amends Section 13.08.070
1220 Special; alcohol tastings
1221 Special; election
1222 Amends Section 10.04.050.W; adds new Section 10.04.050.X; amends 10.04.070.C
1223 Amends LUC, 6-3, site coverage
1224 Special; Cable TV franchise
1225 Special appropriation
1226 Amends Section 9.16.040
1227 Special; supplemental appropriation
1228 Amends Title 4, Ethics Code at 4.18.050, 4.18.070, 4.18.110, 4.18.150, 4.18.090 and 4.18.200
1229 Amends Land Use Code; River Park Signs
1230 Special; supplemental appropriation
1231 Amends Chapter 3.30, adds new 3.30.020
1232 Amends Section 5.12.040
1233 Special
1234 Amends 10.04.050 Model Traffic Code
1235 Budget
1236 Amends 15.32 Energy Codes
1237 Franchise Gas
1238 Real Property conveyance
1239 Paving waiver for Roundabout
1240 Amends 2.24 C.A.S.E.
1241 Amends LUC 3-219
1242 Amends 2.4.030 and 2.04.080
1243 Supplemental Appropriations
1246 Amends Title 4 Ethics Code
1247 Amends LUC Church Steeples
1248 Amends LUC Hotel Condominiums
1249 Budget amendment
1250 Amends LUC Wetland Regulations
1251 Water and Sewer Tap Fees
1252 Amends 5.12 Vending
1253 Valley Floor Advisory Board
1254 Amends LUC Article 7
1255 Budget supplemental appropriations
1256 Amends 2.26
1257 Amends 8.03
1258 Amends 6.12.050
1259 Water and Sewer Rates
1260 Budget supplemental appropriations
1261 Amends 7.12.020
1262 Real Property Conveyance
1263 Repeal and Reenact 3.08
1264 Amends Title 17
1265 Issue Revenue Bonds VF
1266 Amends 3.40
1267 Amends LUC 3-219
1268 Amends LUC 8-6
1269 Budget supplemental appropriations
1270 Amends LUC 3-3
1271 Amends 5.15
1272 Creates Administrative Services Dept
1273 Budget supplemental appropriations
1274 Special
1275 Refunding GO Bonds
1276 Refunding Revenue Bonds
1277 Amends LUC Horizontal Zoning
1278 Amends LUC 3-7
1279 Streetscapes
1280 Special
1281 Budget supplemental appropriations
1282 Budget supplemental appropriations
1283 PZ & HARC Executive Sessions
1284 Amends LUC Article 9
1285 Franchise SMPA
1286 Kentucky Placer Annexation
1287 Kentucky Placer Annexation

Adopt New Code

1288	2008	Adopts Municipal Code	1-1-10, 1-1-20, 1-1-30, 1-1-40, 1-1-60, 1-1-70, 1-2-10, 1-2-30, 1-2-40, 1-3-10, 1-3-20, 1-3-30, 1-3-40, 1-3-50, 1-3-70, 1-3-90, 1-3-100, 1-3-140, 1-3-170, 1-4-10, 1-4-20, 1-6-20, 2-1-20, 2-1-30, 2-1-40, 2-1-50, 2-1-60, 2-1-90, 2-2-10, 2-3-20, 2-3-30, 2-3-40, 2-3-70, 2-3-80, 2-3-100, 2-4-20, 2-4-30, 2-4-110, 2-4-150, 2-4-160, 2-4-230, 2-5-20, 2-5-30, 2-5-40, 2-6-10, 2-6-20, 2-6-40, 2-6-50, 2-6-60, 2-7-60, 2-8-10, 2-8-20, 4-1-20, 4-1-30, 4-1-50, 4-3-30, 4-3-60, 4-3-70, 4-3-160, 4-3-190, 4-3-200, 4-4-20, 4-4-30, 4-4-40, 4-4-50, 4-4-60, 4-4-70, 4-4-80, 4-4-90, 4-4-100, 4-4-110, 4-4-140, 4-4-160, 4-4-180, 4-5-10, 4-5-20, 4-6-20, 4-6-50, 4-6-110, 4-6-120, 4-6-210, 4-6-220, 4-6-240, 4-6-400, 5-1-60, 6-1-10, 6-1-20, 6-1-30, 6-1-50, 6-1-60, 6-2-20, 6-2-110, 6-2-120, 6-2-130, 6-2-140, 6-2-160, 6-2-170, 6-2-180, 6-2-190, 6-3-10, 6-3-90, 6-4-20, 6-4-40, 6-4-50, 7-1-10, 7-1-20, 7-1-40, 7-1-50, 7-2-10, 7-2-20, 7-2-40, 7-3-10, 7-3-20, 7-3-30, 7-3-40, 7-3-50, 7-3-60, 7-3-70, 7-4-10, 7-4-20, 7-4-30, 7-4-40, 7-4-80, 7-4-90, 7-5-110, 7-5-120, 7-5-130, 7-5-190, 7-5-320, 7-5-400, 7-5-410, 7-6-220, 7-6-350, 7-6-400, 8-1-50, 8-1-60, 8-1-70, 8-2-20, 8-2-30, 8-2-60, 8-2-70, 8-2-80, 8-2-90, 8-3-30, 8-3-40, 8-3-70, 10-1-10, 10-2-10, 10-2-20, 10-2-30, 10-2-40, 10-2-50, 10-2-80, 10-3-10, 10-4-20, 10-4-30, 10-4-40, 10-4-50, 10-4-60, 10-4-70, 10-4-80, 10-4-90, 10-4-100, 10-4-120, 10-4-130, 10-4-110, 10-4-140, 10-4-150, 10-4-160, 10-4-170, 10-5-20, 10-5-30, 10-5-40, 10-5-50, 10-5-60, 10-5-80, 10-5-100, 10-6-20, 10-6-30, 10-7-10, 10-8-10, 10-8-20, 10-8-40, 10-9-10, 10-9-20, 11-1-30, 11-1-40, 11-1-50, 11-1-90, 11-1-110, 11-3-10, 11-3-30, 11-3-40, 11-3-70, 11-3-80, 11-3-90, 11-4-10, 11-4-20, 11-4-70, 11-4-80, 13-1-10, 13-1-30, 13-1-70, 13-1-130, 13-1-140, 13-2-10, 13-2-20, 13-2-80, 13-3-10, 13-3-20, 13-3-30, 13-3-90, 13-3-100, 13-3-110, 13-3-120, 13-1-130, 13-4-30, 13-5-30, 13-5-40, 13-5-50, 15-1-10, 15-1-20, 15-1-30, 15-1-40, 15-2-10, 15-2-20, 15-2-30, 15-2-40, 15-3-10, 15-3-20, 15-3-30, 15-3-40, 15-4-10, 15-4-20, 15-4-30, 15-4-40, 15-4-50, 15-4-60, 15-4-70, 15-5-10, 15-5-20, 15-5-30, 15-5-40, 15-6-10, 15-6-20, 15-6-30, 15-6-40, 15-7-10, 15-7-20, 15-7-30, 15-7-40, 15-8-10, 15-8-20, 15-8-30, 15-8-40, 15-9-20, 15-9-30, 15-9-50, 15-10-20, 15-10-40, 15-11-20, 15-12-30, 15-14-30, 15-14-60, 15-15-50, 15-15-130, 15-15-190, 15-15-200, 15-15-220, 15-15-230

Ord. No.	Year	Subject		Disposition
1289	2008	Valley Floor		
1290	2008	Gold Run Annexation		
1291	2008	Gold Run zoning		
1292	2008	Street vacation		
1293	2008	Wildlife-resistant refuse containers		7-1-10, 7-5-130, 7-5-140
1294	2008	Appropriation		
1295	2008	Municipal election matters		Charter §§2.1, 2.3, 2.5, 2.9, 2.11, 3.2, 3.4, 3.6, 4.1, 4.5, 4.12, 5.4, 7.1, 7.2, 8.2, 9.3, 10.4, 10.13, 13.6 Charter §2.4 Charter §§4.10, 11.2, 11.3, 11.7, 12.1
1296	2008	Building regulations	Rpld/Rnctd	Ch. 15
1297	2008	Model Traffic Code	Rpld/Rnctd	Ch. 8, Art. 1, 8-1-60
1298	2008	Water/Sewer Rates		
1299	2008	Appropriation		
1300	2008	Planned Unit Development		Chapter 18
1301	2008	National Electrical Code	Amend	15-4-10
1302	2009	Reuseable Materials	Amend	7-1-10, 10-4-100(c)
			New	7-5-120(f)
1303	2009	Cemetery Zone District		Chapter 18
1304	2009	Rezone property		Chapter 18
1305	2009	Animals, Dogs	Amend	7-6-10, 7-6-150, 7-6-140, 7-6-200, 7-6-350(e)
			Delete	7-6-220
			Rpld/Rnctd	7-6-400
1306	2009	Planned Unit Development		Chapter 18
1307	2009	Elections	Rpld/Rnctd	Chapter 2
1308	2009	Mobile vending	New	7-4-40(b)(4)
			Amend	6-4-20
1309	2009	Appropriation		
1310	2009	Vendor Collection Fee; Sales, Excise Taxes	Amend	4-2-160(b)(1), 4-4-50(g)
1311	2009	Permissions Withheld	New	1-5-60
1312	2009	Open Container	New	10-7-10(c)
1313	2009	Building Permit Payments	Amend	4-2-650(d)
1314	2009	Appropriation		
1315	2009	Valley Floor Conservation Easement		
1316	2009	Schools	Amend	Chapter 18
1317	2009	Affordable Housing Mitigation		Chapter 18
1318	2009	Liquor License		
		Distance Requirements	Amend	6-2-160

Ord. No.	Year	Subject	Disposition	
1319	2009	Revenue Bonds		
1320	2009	Medical Marijuana	New	6-5
1321	2009	Gold Run property conveyance		
1322	2009	Appropriation		
1323	2010	Medical Marijuana	New	Chapter 18
1324	2010	Valley Floor Annexation		
1325	2010	Valley Floor Zoning		
1326	2010	Appropriation		
1327	2010	Town Park/Riverside Annexation		
1328	2010	Town Park/Riverside Zoning		
1329	2010	Legal Notice Publication	Amend	1-3-120, 4-6-220, 4-6-520
1330	2010	Riverside boundary correction		
1331	2010	Energy Codes	Rpld/Rnctd	15-9
1332	2010	Appropriation		
1333	2010	Relocated Trees to Chapter 18	Rpld	10-4-170
1334	2010	Dogs	Amend	7-6-350(1)
1335	2010	Bonds		
1336	2010	Valley Floor Bonds		
1337	2010	Bear Creek Annexation		
1338	2010	Bear Creek Zoning		
1339	2010	Dogs	Amend	7-6
1340	2010	Prohibition of Disposable Bags	New	7-7
1341	2010	General Obligation Bonds		
1342	2010	Short Term Rentals	Amend	6-1, 4-4-20
1343	2010	Appropriations		
1344	2011	Vitality Setback	Amend	Chapter 18
1345	2011	Appropriations		
1346	2011	Extension for development approvals		18-7
1347	2011	Ethics Code	Amend	2-4-170
1348	2011	Medical Marijuana	New	6-5
1349	2011	Sidewalks	Amend	10-3-10
1350	2011	Public Notice	Amend	Chapter 18
1351	2011	Refuse	Amend	7-5
1352	2011	Signs	Amend	Chapter 18
1353	2011	Lighting	Amend	Chapter 18
1354	2011	Bike path	Amend	8-1-40
1355	2011	Appropriation		
1356	2011	Elections	Amend	2-1
1357	2011	Companion Animals	Amend	7
1358	2011	Capital Improvement Fund	Amend	4-1-20, 4-2-110(c), 4-3-30
1359	2011	Street vacation		

Ord. No.	Year	Subject	Disposition	
1360	2011	Water rates		
1361	2011	Design and Construction Standards for Construction in Rights-of-Way	Amend	Chapter 18
1362	2011	Sidewalks	Amend	11-1
1363	2011	Right of Way Standards	Amend	Chapter 18
1364	2012	Elections	Amend	2-10-0, 2-1-50
1365	2012	Conveyance of Property		
1366	2012	Procurement Code	Amend	4-6
1367	2012	Hearing Procedures	Amend	Chapter 18
1368	2012	Town Permissions	Amend	1-5-60
1369	2012	Budget		
1370	2012	Crowd Size	Amend	11-4-20
1371	2012	Ecology Commission	Amend	2-7
1372	2012	Telluride Energy Mitigation Program	Amend	15-9
1373	2012	Fire Ban	n/a	n/a
1374	2012	Pro Cycling Challenge Prohibition on Vending	n/a	n/a
1375	2012	Management of Fats, Oils and Grease	Amend	13-1-30; 13-1-190
1376	2012	Budget	n/a	n/a
1377	2012	Repeal Fire Ban	n/a	n/a
1378	2012	NEC, IPC, IFC	Amend	15-4-10; 15-5-10; 15-5-20; 15-5-30; 15-5-40; 15-6-10; 15-6-50
1379	2012	Alcoholic Beverages	Amend	10-7-10
1380	2012	Road Vacation	n/a	n/a
1381	2012	Budget	n/a	n/a
1382	2012	Water conveyance	n/a	n/a
1383	2013	Uncontained Refuse	Amend	7-5-620
1384	2013	Budget	n/a	n/a
1385	2013	Real Property	n/a	n/a
1386	2013	Vending	Amend	6-4-20; 6-4-30; 6-4-40; 6-4-50
1387	2013	Business Licenses	Amend	6-1-50; 6-1-80
1388	2013	Sales and Use Tax	Amend	4-2-140
1389	2013	Fire Ban	n/a	n/a
1390	2013	Charter Amendments to Electorate		Charter upon passage by voters
1391	2013	Certificates of Participation	n/a	n/a
1392	2013	Rezone specific property	n/a	n/a
1393	2013	Water and Wastewater Rates	n/a	n/a
1394	2013	Retail Marijuana	New	6-6

Ord. No.	Year	Subject	Disposition	
1395	2013	Vacate Pinon ROW	n/a	n/a
1396	2013	Budget	n/a	n/a
1397	2013	Historic Survey	n/a	n/a
1398	2014	Land Use Code	Amend	18
1399	2014	Budget	n/a	n/a
1400	2014	Land Use Code	Amend	18
1401	2014	Vending	Amend	6-4-40
1402	2014	Land Use Code	Amend	18
1403	2014	Zoning Map	n/a	n/a
1404	2014	Approving Galloping Goose Trail Easement	n/a	n/a
1405	2014	Consenting Galloping Goose Trail Easement	n/a	n/a
1406	2014	Amend to Valley Floor Conservation Easement	n/a	n/a
1407	2014	Marijuana Manufacturing	Amend	6-6
1408	2014	Water Conservation Code	Amend	13-5-30
1409	2014	Budget		
1410	2014	Ethics Code	Amend	2-4
1411	2014	TSRC Lease		
1412	2014	Cable Franchise		
1413	2014	Sale of Town owned property		
1414	2014	Special Event Fees	Amend	6-3
1415	2014	SMPA Easement		
1416	2014	Vending	Amend	6-4
1417	2014	Land Use Code Repeal Waivers	Repeal	Sec. 5-205.C
1418	2014	Land Use Code	Amend	Article 5, Division 2; Article 9
1419	2015	Budget		
1420	2015	Land Use Code Rockfall Haz	Amend	Article 6, Article 8
1421	2015	Tap Fees	Amend	13-1-70
1422	2015	Land Use Code Floor Area	Amend	Article 2, Article 3
1423	2015	Land Use Code Review Process	Amend	Article 2; Article 3, Article 5, Article 7
1424	2015	Panhandling regulations	New	10-10
1425	2015	Source Gas Franchise		
1426	2015	School District IGA		
1427	2015	Land Use Code Town Pk Stage	Amend	3-217
1428	2015	Budget		
1429	2015	Land Use Code Hotel Floor Area	New	3-212; 3-213
1430	2015	Land Use Code Tree Code	Amend	3-505
1431	2015	Ethics Code	Amend	2-4
1432	2015	Cable TV Franchise Agreement		

Ordinance List and Disposition Table

Ord. No.	Year	Subject	Disposition	
1433	2015	Land Use Code Design Standards and Guidelines		
1434	2015	LUC Design Standards and Guidelines references		
1435	2016	Budget Amendments		
1436	2016	Pinion Easement Relocation		
1437	2016	Boards & Commissions Amendments	Amend	2-5
1438	2016	Vending Code	Amend	6-4
1439	2016	Zone District map	Amend	
1440	2016	Budget Amendments		
1441	2016	Land Use Code Residential Zone Districts (setbacks, floor area, site coverage)		
1442	2016	Conveyance Town Owned property		
1443	2017	Budget		
1444	2017	Ground Lease Town property Virginia Placer		
1445	2017	Conveyance Town property		
1446	2017	Land Use Code Commercial Zone District (dimensional limitations, parking, PUD)		
1447	2017	Vending		

-A-

ABANDONMENT AND IMPOUNDMENT OF VEHICLES
- Abandonment unlawful 8-3-10
- Fees 8-3-50
- Impounding
  - authority 8-3-20
  - grounds 8-3-30
- Notice and hearing 8-3-60
- Penalties 8-3-70
- Temporary immobilization 8-3-40

ADMISSIONS FEE FOR FESTIVALS, EVENTS IN TOWN
- Admissions fee levied 6-3-30
- Collection
  - audit 6-3-100
  - inspection, right of 6-3-100
  - payment of disputed fee 6-3-110
  - remittance of fee 6-3-50
- Definitions 6-3-10
- Determination of fee due 6-3-90
- Exclusions 6-3-40
- Failure to remit, penalties for nonpayment 6-3-60
- Inspection, right of 6-3-100
- Printing of fee on ticket 6-3-80
- Purpose of fee 6-3-20
- Unlawful assumption of fee 6-3-70
- Use of proceeds 6-3-120
- Violations, penalty 6-3-130

AIRLINE GUARANTY PROGRAM FUND
- Created 4-1-10
- Revenue dedication 4-4-160

ALCOHOLIC BEVERAGES
- Hotel, restaurant optional premises liquor licenses
  - advance notification 6-2-250
  - eligible facilities 6-2-220
  - number of optional premises 6-2-230
  - standards supplement to law 6-2-210
  - submittal requirements 6-2-240
- Liquor licenses
  - distance requirements 6-2-160
  - fines
    - for late renewal 6-2-130
    - in lieu of suspension 6-2-150
- Liquor licenses (cont'd)
  - general provisions 6-2-110
  - renewal applications 6-2-120
  - training workshop 6-2-140
- Liquor Licensing Authority
  - authority, establishment of 6-2-10
  - duties 6-2-20
  - issuance of new 6-2-30
  - legal advisor appeals 6-2-50
  - secretary 6-2-40
  - show cause hearings 6-2-60
- Modification of liquor-licensed premises 6-2-190
- Open container 10-7-10
- Special event permits 6-2-180
- Tastings 6-2-170

ANIMALS
- Authority to impound 7-6-170
- Care and keeping of animals
  - care of confined animals 7-6-120
  - feeding of wildlife 7-6-210
  - fines, penalty and other assessments 7-6-220
  - hitching 7-6-150
  - noncompanion animals 7-6-110
  - protection of mistreated, neglected, abandoned animals 7-6-130
  - running at large 7-6-140
- Care of confined animals 7-6-120
- Definitions 7-6-10
- Dogs
  - canine trespass 7-6-370
  - display of license tags 7-6-330
  - fines, penalty assessment other penalties 7-6-400
  - harassment of wildlife 7-6-390
  - in estrus 7-6-340
  - leashing required 7-6-360
  - licensing requirements 7-6-310
  - prohibited activities 7-6-350
  - purchase of licenses and fee 7-6-320
  - Town Park closures 7-6-380
- Feeding of wildlife 7-6-210
- Fees
  - dog license 7-6-320
  - impoundment 7-6-190
  - pick-up from impound 7-6-190
- Fines, penalty and other assessments 7-6-220
- General provisions
  - affirmative defense 7-6-30
  - definitions 7-6-10
  - mens rea, strict liability 7-6-20

ANIMALS (Cont'd)
Hitching 7-6-150
Impoundment
authority to impound 7-6-170
care of confined animals 7-6-120
facility 7-6-160
fees, pick-up and impound 7-6-190
notice of impoundment 7-6-180
release and disposition of impounded animal 7-6-200
Noncompanion animals 7-6-110
Pick-up and impound fees 7-6-190
Protection of mistreated, neglected, abandoned animals 7-6-130
Release and disposition of impounded 7-6-200
Running at large 7-6-140
Violation, fines 7-6-220
Wildlife
feeding 7-6-210
harassing 7-6-390

APPLICATIONS AND PERMISSIONS
Applicant's expense
expert review 1-5-40
mailed notice 1-5-50
Denied, Town liability 1-5-30
Permissions
false information voids 1-5-10
revocation 1-5-20
Town liability denied 1-5-30

ATTORNEY, TOWN
See OFFICERS, TOWN

-B-

BOARD OF ADJUSTMENT AND APPEALS
Alternate materials and methods 15-16-190
Alternates
appointment of 15-16-40
powers and duties 15-16-50
Appeal 15-16-210
form 15-16-220
Appointment
alternates 15-16-40
Chairperson 15-16-70
Clerk 15-16-80
Vice Chairperson 15-16-70
Authority
deadline 15-16-230
jurisdiction 15-16-110
limitation 15-16-110
Chairperson, Vice Chairperson
appointed 15-16-70
Code interpretation 15-16-190
Duties 15-16-200
Building Official 15-16-90
Planning Director 15-16-90
Established 15-16-10
Expenses 15-16-100
Findings and decisions 15-16-160
Jurisdiction, limitation of authority 15-16-110
Legal conformance 15-16-170
Majority vote 15-16-130
Meetings
call 15-16-180
open to public 15-16-150
quorum 15-16-120
Membership 15-16-30
Minutes, open meetings 15-16-150
Open meetings 15-16-150
Powers and duties of alternates 15-16-50
Purpose 15-16-20
Quorum 15-16-120
Rules and regulations 15-16-140
Terms, vacancies 15-16-60

BOARDS AND COMMISSIONS
Board of Adjustment and Appeals 15-16-10
Commission for Community Assistance, Arts and Special Events 2-6-10
Composition Ch. 9.2
Conflicts of interest Ch. 4.18
Continuance Ch. 9.1
Ecology Commission 2-7-10
Election Commission Ch. 2.5
Establishment, rules of procedure Ch. 9.3
Ethics Commission 2-4-160
Existing Ch. 9.1
General provisions
advisory rulings on conflicts of interest 2-5-20
challenge of members for bias 2-5-40
good cause 2-5-10
unexpired terms 2-5-30
vacancies 2-5-30
Open Space Commission 2-8-10
Parks and Recreation Commission 2-9-10
Removal of members Ch. 9.4
Vacancy, filling Ch. 9.5

BRUSH
See WEEDS AND BRUSH

BUILDING CODE, INTERNATIONAL
Adoption 15-1-10
Amendments 15-1-30
Appeals 15-1-50
Copy on file 15-1-20
Penalty 15-1-40

BUILDING REGULATIONS
Board of Adjustment and Appeals 15-16-10
Building street address number
Official Map 15-15-10
Construction Mitigation Plan 15-11-10
Construction specifications 15-12-10
Design standards 15-12-10
Energy Code 15-9-10
Engineering Review Costs 15-13-10
International Building Code 15-1-10
International Existing Building Code 15-3-10
International Fire Code 15-6-10
International Fuel Gas Code 15-8-10
International Mechanical Code 15-7-10
International Plumbing Code 15-5-10
International Property Maintenance
Code 15-10-10
International Residential Code 15-2-10
National Electrical Code 15-4-10
National Trust for Historic Preservation
Amendments to the IEBC Appx 15-A
Prescriptive Energy Code 15-9-20
requirements Appx 15-B
Public improvements reimbursement 15-14-10

BUILDING STREET ADDRESS NUMBER
Appeals 15-15-80
Building street address numbers
required 15-15-20
Emergency information telephone
stickers 15-15-40
Maintenance 15-15-50
Official Map 15-15-10
Penalties 15-15-70
Sign requirements 15-15-30
Unlawful to deface number 15-15-60

BUSINESS LICENSES
See also LICENSES AND PERMITS
Administration by Town Clerk 6-1-60
Definitions 6-1-10
Delinquency charges penalty 6-1-100
Exemptions 6-1-50
Failure to obtain 6-1-90
Fee levied 6-1-20
Legal compliance required 6-1-70
Required 6-1-40
for procurement process 4-6-160
Revocation 6-1-80
Use of proceeds 6-1-30

-C-

CAPITAL IMPROVEMENT FUND
Created 4-1-20

CHARTER, TOWN
See also TOWN COUNCIL
Amendments Ch. 14.6
De-annexation of property Ch. 14.3
Effective date Ch. 15.1
Election after adoption Ch. 15.2
Eminent domain established Ch. 14.1
General provisions
existing corporation Ch. 1.1
form of government Ch. 1.3
municipal powers Ch. 1.2
Interpretations Ch. 14.7
Penalties Ch. 14.8
Reservation of power Ch. 14.2
Savings clause Ch. 15.5
Severability Ch. 14.5
Town liability Ch. 14.4
Transition provisions
first election after adoption Ch. 15.2
officials to continue in office Ch. 15.4
prior legislation Ch. 15.3
savings clause Ch. 15.5
transition for terms Ch. 15.6

CLEAN INDOOR AIR ACT
Definitions 7-3-20
Enforcement 7-3-70
Exceptions and variances 7-3-60
Legislative intent and purpose 7-3-10
Posting of signs 7-3-50
Regulation of smoking in places of
employment 7-3-40
Smoking prohibited 7-3-30

CLERK, TOWN
See OFFICERS, TOWN

CODE, MUNICIPAL
Abbreviations 1-2-20
Acts
authorized 1-3-20
prohibited 1-3-30
Adoption
by reference, secondary codes 1-1-40
of Code 1-1-10
Amendments 1-3-70
Citations 1-3-160
Copy on file 1-3-90
Declaration of intent or necessity unaffected 1-3-60
Definitions 1-2-10
Designated representatives
authorized acts by 1-3-20
title of office 1-2-40
Enabling power of Town Council 1-3-150
General penalty 1-4-10
Grammatical interpretation 1-2-60
Notice, publication of 1-3-120
Ordinances
actions requiring Ch. 4.9
changes in previously adopted 1-1-70
Code supersedes previously adopted 1-1-30
codification Ch. 4.14
disposition Ch. 4.16
emergency, procedure when Ch. 4.13
enactment Ch. 4.11
procedure generally Ch. 4.12
repeal 1-3-50
matters not affected by 1-1-50
saved from repeal 1-1-60
specific, reference to 1-3-130
vote, extraordinary majority required Ch. 4.10
Penalty
general penalty for violation 1-4-10
application to juveniles 1-4-20
Publication of notice 1-3-120
Purpose 1-3-40
Recodification 1-3-110
Sale of Code books 1-3-100
Secondary codes adopted by reference 1-1-40
Severability 1-3-140
Supersedes prior ordinances 1-1-30
Supplementation 1-3-80
Terms, usage of 1-2-50
Time, computation 1-2-30
Title, citation, reference 1-1-20
Titles and headings not part of Code 1-3-10
Usage of terms 1-2-50

COMMISSION FOR COMMUNITY ASSISTANCE, ARTS AND SPECIAL EVENTS
Duties 2-6-60
Established 2-6-10
Membership 2-6-20
Mission 2-6-50
Organization, meetings 2-6-40
Term 2-6-30

COMMISSIONS
See BOARDS AND COMMISSIONS

CONSTRUCTION MITIGATION PLAN
Compliance with Manual 15-11-20
Fines 15-11-30
Penalties 15-11-30
Purposes 15-11-10

COUNCIL, TOWN
Appointing authority
Acting Manager Ch. 7.2
Attorney, Town Ch. 8.1
Manager, Town Ch. 7.1
Municipal Judge, deputies Ch. 8.2
Boards, commissions
member removal authority Ch. 9.4
vacancy filling duties Ch. 9.5
Budget
adoption Ch. 10.8
appropriations amendment duties Ch. 10.12
property tax levy certification Ch. 10.9
Codification of Code Ch. 4.14
Compensation Ch. 3.4
Composition Ch. 3.1
Conflicts of interest Ch. 4.18
Election, first after Charter adoption Ch. 15.2
Eminent domain power Ch. 14.1
Enabling power 1-3-130
Establishment Ch. 9.3
Extraterritorial jurisdiction 1-3-180
Franchises, recordkeeping duties Ch. 13.6
General provisions
existing corporation Ch. 1.1
form of government Ch. 1.3
municipal powers Ch. 1.2
Liability Ch. 14.4
hold harmless provision 1-3-170
Local, special improvement districts, creation, assessment, bond issuance authority Ch. 11.5
Manager, Town appointed Ch. 7.1
duties, powers Ch. 7.3

removal Ch. 7.4
Mayor
duties and powers Ch. 5.2
vacancy of Ch. 5.5
Mayor Pro Tem
election Ch. 5.1
vacancy Ch. 5.4
Meetings
actions by ordinance, motion, resolutions Ch. 4.7
adjournment Ch. 4.5
emergency meetings Ch. 4.4
open to public Ch. 4.6
organizational meeting Ch. 4.1
public Ch. 4.6
quorum, adjournment Ch. 4.5
regular meetings Ch. 4.2
special meetings Ch. 4.3
voting procedure generally Ch. 4.8
Oath of office Ch. 3.7
Ordinances
action required by Ch. 4.9
codification duties Ch. 4.14
disposition Ch. 4.16
emergency ordinances Ch. 4.13
form, enacting procedure Ch. 4.11
procedures generally Ch. 4.12
vote, extraordinary majority required Ch. 4.10
Powers Ch. 3.6
reservation of Ch. 14.2
Public
meetings Ch. 4.6
records Ch. 4.17
Qualifications Ch. 3.3
Ratification, Town meeting Ch. 16.6
Relationship with Town Attorney, Manager, Mayor Ch. 7.5
Secondary codes, adoption Ch. 4.15
Subcommittees 2-2-10
Terms of office Ch. 3.2
Town meetings Ch. 16.1
call to Ch. 16.2
moderator Ch. 16.4
powers of Ch. 16.3
procedure Ch. 16.5
ratification by Council Ch. 16.6
veto Ch. 16.7
Utilities, municipal, service rates, areas establishment Ch. 13.3
Vacancies Ch. 3.5

COURT
See MUNICIPAL COURT

-D-

DESIGN STANDARDS AND CONSTRUCTION SPECIFICATIONS
Appeals 15-12-30
Authority 15-12-10
Construction conformance 15-12-20
Permit 15-12-20

DISCRIMINATORY PRACTICES
Civil liability 10-6-40
Definitions 10-6-10
Penalties 10-6-30
other penalties 10-6-50
Prohibited practices 10-6-20

DISPOSABLE PLASTIC BAGS 7-7-10

DOGS
Canine trespass 7-6-370
Display of license tags 7-6-330
Fee for license 7-6-320
Fines, penalty assessment and other penalties 7-6-400
Harassment of wildlife 7-6-390
In estrus 7-6-340
Leashing required 7-6-360
Licensing requirements 7-6-310
Prohibited activities 7-6-350
Purchase of licenses and fee 7-6-320
Town Park closures 7-6-380

-E-

ECOLOGY COMMISSION
Composition 2-7-20
Established 2-7-10
Organization, meetings 2-7-40
Powers and duties 2-7-60
Staff, contracted professionals 2-7-50
Terms 2-7-30
Vacancies 2-7-30

ELECTIONS
Amendment of provisions Ch. 2.11
Ballots Ch. 2.8
absentee 2-1-40
applications Ch. 2.9
language Ch. 2.8
mail-in Ch. 2.9
Cancellation 2-1-50
Charter adoption, first election after Ch. 15.2
Date; polling places Ch. 2.1
Election Commission Ch. 2.5
Election laws adopted with reservation Ch. 2.10
Electors, qualifications, registration Ch. 2.4
Judges, clerks and counting judges 2-1-20
Municipal Ch. 2.1
Nomination of candidates Ch. 2.6
Nonpartisan Ch. 2.2
issue petitions, nominating petitions 2-1-80
Polling places Ch. 2.1
Precincts Ch. 2.3
established 2-1-10
Purging of nonvoting electors 2-1-60
Recall procedure Ch. 2.7
Rules concerning watchers 2-1-70
Statutory provisions, conformance Ch. 2.10
Suspension of effect of ordinance, initiative and referendum Ch. 6.5
Vacancies in nominations 2-1-90
Withdrawal from nominations 2-1-90
Write-in votes 2-1-30

ELECTRICAL CODE, NATIONAL
Adoption 15-4-10
Amendments 15-4-30
Appeals 15-4-50
Copy on file 15-4-20
Penalty 15-4-40

EMERGENCY TELEPHONE SERVICE
Budget 5-2-80
Definitions 5-2-10
Duty to collect 5-2-40
Emergency telephone charge 5-2-20
Liability of service user 5-2-50
Remittance 5-2-60
Service agreement 5-2-70
Use of proceeds 5-2-30

EMPLOYEES, TOWN
See also OFFICERS, TOWN

ENERGY CODES
Adoption 15-9-10
Amendments 15-9-30
Penalty 15-9-70
Energy Mitigation Program 15-9-40

ENGINEERING REVIEW COSTS
Applicability 15-13-10
Estimation and payment 15-13-20
Refund or additional payment 15-13-30

ETHICS CODE
Acceptance of tickets and passes 2-4-110
Bias challenge 2-4-250
Civil and criminal liability 2-4-240
Confidences to be maintained 2-4-140
Conflict review prior to appointment 2-4-150
Contracts with the Town 2-4-130
Declaration required 2-4-60
Definitions 2-4-20
Disclosure guidelines 2-4-40
Disqualification from voting, influencing 2-4-70
Enforcement 2-4-220
Ethics Commission established 2-4-160
Ex parte communications 2-4-90
General guidelines 2-4-30
Membership 2-4-170
Meetings 2-4-190
Penalty 2-4-230
Powers, duties 2-4-210
Practice before boards and commissions 2-4-100
Public challenge 2-4-80
Rules of ethical conduct 2-4-50
Statement of purpose 2-4-10
Subsequent employment 2-4-120
Terms of office 2-4-180
Voting 2-4-200

EXCISE TAX
Administration of tax collections 4-4-130
Airline Guaranty Program Fund, revenue dedication 4-4-160
Appeals to Town Manager 4-4-120
Collection and remittance of tax 4-4-50
Definitions 4-4-20
Delinquency interest and penalty 4-4-50
Disputed tax payment, refund 4-4-80
Excise tax
exemption 4-4-60
imposed 4-4-30
license required 4-4-40
suspension or revocation 4-4-40
Exemption from excise tax 4-4-60

Failure to collect tax or file return 4-4-100
Finance Director authority 4-4-130
Investigations, records and audits 4-4-90
Limitations 4-4-150
Notices, review of return, underpayment and overpayment of taxes 4-4-70
Purpose 4-4-10
Records and audits, investigations 4-4-90
Recovery of tax deficiencies 4-4-100
Refund 4-4-80
Revenue dedication, Airline Guaranty Program Fund 4-4-160
Review of return 4-4-70
Sunset and repealer 4-4-170
Tax information confidential 4-4-140
Tax lien 4-4-110
Underpayment and overpayment of taxes 4-4-70
Vendor collection fee 4-4-50
Violations, penalty 4-4-180

EXISTING BUILDING CODE, INTERNATIONAL
Adoption 15-3-10
Amendments 15-3-30
Appeals 15-3-50
Copy on file 15-3-20
Penalty 15-3-40

-F-

FATS, OILS AND GREASE 13-1-190

FEES
Animal pick-up, impound 7-6-190
Business license 6-1-20
Dog license 7-6-320
Excise tax 4-4-30
vendor collection fee 4-4-50
Festival events
admissions 6-3-30
permit 11-4-40
Franchise applications 5-1-10
Utilities, municipal 13-1-70
Vehicle abandonment and impoundment 8-3-50

FESTIVAL EVENTS
Admissions fee 11-4-40
assumption unlawful 6-3-70
audit 6-3-100
collection
payment of disputed fee 6-3-110
remittance of fee 6-3-50
right of inspection 6-3-100
definitions 6-3-10
determination of fee due 6-3-90
failure to remit, penalties for nonpayment 6-3-60
levied 6-3-30
printing on ticket 6-3-80
purpose of fee 6-3-20
violations, penalty 6-3-130
Advance notice of impacts 11-4-20
Commission for Community Assistance, Arts and Special Events 2-6-10
Crowd size limit in Town Park 11-4-30
Definitions 11-4-10
Exclusions 6-3-40
Failure to remit, penalties for nonpayment 6-3-60
Indemnification and insurance 11-4-50
Permit required 11-4-60
exemption procedure 11-4-70
Printing of fee on ticket 6-3-80
Unlawful assumption of fee 6-3-70
Use of proceeds 6-3-120
Violations, fine 11-4-80

FINANCE
Airline Guaranty Program Fund 4-1-10
Audit required, independent Ch. 10.13
Bonds
general obligation bonds Ch. 11.2
local improvement bonds Ch. 11.5
refunding bonds Ch. 11.4
revenue bonds Ch. 11.3
special improvement bonds Ch. 11.5
Borrowing authority
bonds
general obligation bonds Ch. 11.2
local improvement bonds Ch. 11.5
refunding bonds Ch. 11.4
revenue bonds Ch. 11.3
special improvement bonds Ch. 11.5
forms of Ch. 11.1
limitations, no additional Ch. 11.7
short-term notes Ch. 11.6
Budget
adoption Ch. 10.8
amendment Ch. 10.7
after adoption Ch. 10.12
capital program, contents, submittal Ch. 10.5
content Ch. 10.4
contingencies Ch. 10.10
message Ch. 10.3
preparation, submission Ch. 10.2
property tax levy Ch. 10.9

public hearings Ch. 10.6
records, public Ch. 10.11
submission Ch. 10.2
Capital Improvement Fund 4-1-20
Custody and management of funds 4-1-50
Debts to Town 4-1-90
Deposits 4-1-70
Excise tax 4-4-10
Fiscal year Ch. 10.1
Independent audit Ch. 10.13
Investment of funds 4-1-60
Open Space Fund 4-1-30
Parking and Transportation Fund 4-1-40
Payment reports 4-1-80
Property tax Ch. 10.9
levy 4-5-10
Public hearing Ch. 10.6
Public records Ch. 10.11
Real estate transfer tax 4-3-10
Sales and use tax 4-2-10
Submission of budget and budget message Ch. 10.2
Telephone utility tax 4-7-10

FIRE CODE, INTERNATIONAL
Adoption 15-6-10
Amendments 15-6-40
Copy on file 15-6-20
Delegation of enforcement 15-6-30
Penalty 15-6-50

FISCAL YEAR, TOWN
Designated Ch. 10.1

FRANCHISES
Application fee 5-1-10
final fee payment 5-1-40
failure to pay 5-1-50
notification of final costs 5-1-30
review of fee 5-1-60
Existing Ch. 13.7
Granting of Ch. 13.4
Record of Town expenses 5-1-20
Records Ch. 13.6
Review, periodic Ch. 13.5
franchise application fee 5-1-60

FUEL GAS CODE, INTERNATIONAL
Adoption 15-8-10
Amendments 15-8-30
Appeals 15-8-50
Copy on file 15-8-20
Penalty 15-8-40

FUNDS
Airline Guaranty Program Fund 4-1-10
Capital Improvement Fund 4-1-20
Custody and management 4-1-50
Debts to Town 4-1-90
Deposits 4-1-70
Investment of funds 4-1-60
Open Space Fund 4-1-30
Parking and Transportation Fund 4-1-40
Payment reports 4-1-80

-G-

GARBAGE
See also REFUSE
Uncontained 7-5-510

GENERAL OFFENSES
See OFFENSES

GENERAL PENALTY
See CODE, MUNICIPAL

-H-

HANG GLIDING
Definitions 10-9-10
Penalties 10-9-30
Regulations 10-9-20

HOTEL, RESTAURANT OPTIONAL PREMISES LIQUOR LICENSE
Advance notification 6-2-250
Eligible facilities 6-2-220
Number of optional premises 6-2-230
Standards supplement to law 6-2-210
Submittal requirements 6-2-240

-I-

LOCAL IMPROVEMENT DISTRICTS
creation, assessments, bonds Ch. 11.5
IMPOUNDMENT, CARE AND KEEPING OF ANIMALS
See also ANIMALS
Authority to impound 7-6-170
Care of confined animals 7-6-120
Feeding of wildlife 7-6-210
Fees for pick-up, impoundment 7-6-190

Fines, penalty and other assessments 7-6-220
Hitching 7-6-150
Impoundment facility 7-6-160
Noncompanion animals 7-6-110
Notice of impoundment 7-6-180
Pick-up and impound fees 7-6-190
Protection of mistreated, neglected, abandoned animals 7-6-130
Release and disposition of impounded 7-6-200
Running at large 7-6-140

INITIATIVE AND REFERENDUM
Action on petitions Ch. 6.6
Affidavit, Petitioner's Committee Ch. 6.2
General authority Ch. 6.1
Petitioner's Committee, affidavit Ch. 6.2
Petitions Ch. 6.3
Procedure after filing Ch. 6.4
Referendum petitions Ch. 6.5
Results of election Ch. 6.8
Submission by Council Ch. 6.7
Suspension of effect of ordinance Ch. 6.5

INTERNATIONAL BUILDING CODE
See BUILDING CODE, INTERNATIONAL

INTERNATIONAL EXISTING BUILDING CODE
See EXISTING BUILDING CODE, INTERNATIONAL

INTERNATIONAL FIRE CODE
See FIRE CODE, INTERNATIONAL

INTERNATIONAL FUEL GAS CODE
See FUEL GAS CODE, INTERNATIONAL

INTERNATIONAL MECHANICAL CODE
See MECHANICAL CODE, INTERNATIONAL

INTERNATIONAL PLUMBING CODE
See PLUMBING CODE, INTERNATIONAL

INTERNATIONAL PROPERTY MAINTENANCE CODE
See PROPERTY MAINTENANCE CODE, INTERNATIONAL

INTERNATIONAL RESIDENTIAL CODE
See RESIDENTIAL CODE, INTERNATIONAL

-L-

LAND USE CODE
(Published under separate cover)

LICENSES
Business
administration by Town Clerk 6-1-60
definitions 6-1-10
delinquency charges penalty 6-1-100
exemptions 6-1-50
failure to obtain 6-1-90
fee levied 6-1-20
legal compliance required 6-1-70
required 6-1-40
for procurement process 4-6-160
revocation 6-1-80
use of proceeds 6-1-30
Dog licenses
display of license tags 7-6-330
fee 7-6-320
purchase of licenses 7-6-320
requirements 7-6-310
Excise tax licenses
required 4-4-40
suspension or revocation 4-4-40
Festivals, events permit
required 11-4-60
exemption procedure 11-4-70
Hotel, restaurant optional premises liquor license
advance notification 6-2-250
eligible facilities 6-2-220
number of optional premises 6-2-230
standards supplement to law 6-2-210
submittal requirements 6-2-240
Liquor licenses
distance requirements 6-2-160
fines
for late renewal 6-2-130
in lieu of suspension 6-2-150
general provisions 6-2-110
renewal applications 6-2-120
training workshop 6-2-140
Medical Marijuana licenses 6-5-308
Center
Infused Products Manufacturing
Optional Premise
Vending licenses
activities allowed without a permit 6-4-30
appeals 6-4-80
definitions 6-4-20

nonprofit waivers 6-4-60
penalties 6-4-70
purpose 6-4-10
vending on
private property 6-4-50
public property 6-4-40

LIQUOR LICENSES
Distance requirements 6-2-160
Fines
for late renewal 6-2-130
in lieu of suspension 6-2-150
General provisions 6-2-110
Renewal applications 6-2-120
Training workshop 6-2-140

LITTERING
Unlawful 10-4-100

LODGING TAX
See EXCISE TAX

-M-

MARIJUANA
Medical 6-5, *et seq.*
Retail 6-6, *et. seq.*

MANAGER, TOWN
See OFFICERS, TOWN

MAYOR
Acting Manager, serving as, when Ch. 7.2
Compensation Ch. 3.4
Duties Ch. 5.2
Election, Town Council membership Ch. 3.1
Ordinance disposition signature Ch. 4.16
Powers Ch. 5.2
Pro Tem Ch. 5.1
duties and powers Ch. 5.3
interim Ch. 5.3
vacancy Ch. 5.4
Relationship with Council Ch. 7.5
Term of office Ch. 3.2
Vacancy, filling Ch. 5.5

MECHANICAL CODE, INTERNATIONAL
Adoption 15-7-10
Amendments 15-7-30
Appeals 15-7-50
Copy on file 15-7-20
Penalty 15-7-40

MODEL TRAFFIC CODE
See also VEHICLES AND TRAFFIC
Adoption 8-1-10
Amendments, modifications 8-1-40
Applicability 8-1-30
Copy on file 8-1-20
Penalty 8-1-50
assessment 8-1-60

MUNICIPAL COURT
Actions, limitation of 2-3-80
Amendment service 2-3-260
Applicability 2-3-10
Areas of application 2-3-60
Commencement of noncriminal violation action 2-3-260
Community service 2-3-220
Contents of charging document 2-3-260
Costs assessment 2-3-100
Creation 2-3-20
Criminal Code adopted 2-3-70
Jurisdiction 2-3-30
procedures generally Ch. 8.2
Liability 2-3-50
Limitation of actions 2-3-80
Mens rea 2-3-50
Noncriminal provisions
appeal 2-3-360
applicability 2-3-230
commencement of noncriminal violation action; contents of charging document; amendment; service 2-3-260
community service 2-3-220
definitions 2-3-250
discovery, subpoena, disability of judge, time and service and filing of papers 2-3-370
failure to pay fine 2-3-210
first appearance 2-3-280
jury trial 2-3-290
noncriminal violations
default on 2-3-340
final hearing of 2-3-320
judgment on after final hearing 2-3-330
payment of penalty assessment before appearance 2-3-270
post-hearing motions 2-3-350
purpose and construction 2-3-240
right to counsel 2-3-300
speedy trial 2-3-310

Vending licenses
Original jurisdiction 2-3-30
Responsibility, presumption of 2-3-90
Rules of procedure 2-3-40

MUNICIPAL JUDGE
Appointment Ch. 8.2
Judiciary Ch. 8.2

MUNICIPAL UTILITIES
Account name 13-2-100
Backflow prevention assembly, failure to install, maintain, test, inspect 13-3-110
Billing procedure 13-2-50
Colorado Cross-Connection Control Manual adopted 13-4-10
Commercial water systems 13-3-70
Connection, permit required 13-1-50
Connections outside Town 13-1-100
Cross-connection control
adoption of control manual 13-4-10
requirements 13-4-20
violations, penalties 13-4-30
Cross-property service lines 13-1-180
Definitions 13-1-30
Delinquency 13-2-120
Dumping tank sludge 13-3-50
Extraterritorial service 13-3-60
Failure to
install, maintain, test or inspect backflow prevention assembly 13-3-110
maintain facilities 13-3-80
Fees and costs 13-1-70
Fire hydrants 13-1-210
unauthorized use 13-3-30
Free service for firefighters and emergency medical technicians 13-2-80
General powers Ch. 13.1
General provisions
connections outside Town 13-1-100
cross-property service lines 13-1-180
definitions 13-1-30
fees and costs 13-1-70
fire hydrants 13-1-210
individual water service lines for each building 13-1-110
installation of meters 13-1-130
interpretation 13-1-20
main or trunk line extension 13-1-80
maintenance of facilities 13-1-140
nonacceptable waste 13-1-190
permit
expiration for water tap 13-1-60
required, connection or tap 13-1-50
purpose 13-1-10
right of entry 13-1-150
separate meters required 13-1-120
sewer connection required, private sewage disposal 13-1-170
sewer control manhole 13-1-200
system described, administration 13-1-40
water shut off for system maintenance 13-1-160
wintertime taps 13-1-90
Individual
service lines 13-3-90
water service line for each building 13-1-110
Installation
high-efficiency fixtures 13-5-20
meters 13-1-130
Interference with waterworks or sewage works prohibited 13-3-40
Interpretation 13-1-20
Landscaping 13-5-30
Liability of owner and occupant 13-2-110
Main or trunk line extension 13-1-80
Maintenance of facilities 13-1-140
Meters
installation 13-1-130
separate required 13-1-120
tampering prohibited 13-3-20
unmetered units surcharge 13-2-60
Nonacceptable waste 13-1-190
runoff water from construction 13-3-100
Omnibus section 13-3-120
Out-of-Town debt support surcharge 13-2-40
Payment required 13-2-90
Penalty 13-3-130
Permit expiration for water tap 13-1-60
Permit required, connection or tap 13-1-50
Purpose 13-1-10
applicability 13-5-10
Reduction of service charge by petition 13-2-130
Requirements, cross-connection control 13-4-20
Right of entry 13-1-150
Separate meters required 13-1-120
Septic tank sludge 13-2-70
Service charges
account name 13-2-100
billing procedure 13-2-50
delinquency 13-2-120
emergency medical technicians, free service 13-2-80
firefighters, free service 13-2-80
general provisions 13-2-10

liability of owner and occupant 13-2-110
out-of-Town debt support surcharge 13-2-40
payment required 13-2-90
reduction by petition 13-2-130
septic tank sludge 13-2-70
sewer rates 13-2-30
surcharge for unmetered units 13-2-60
water rates 13-2-20
Sewer connection required, private sewage disposal 13-1-170
Sewer control manhole 13-1-200
Sewer rates 13-2-30
Surcharge for unmetered units 13-2-60
System described, administration 13-1-40
Tampering with meters 13-3-20
Tap, permit required 13-1-50
Unauthorized use
fire hydrants 13-3-30
water 13-3-10
Unlawful practices
backflow prevention assembly, failure to install, maintain, test, inspect 13-3-110
commercial water systems 13-3-70
dumping tank sludge 13-3-50
extraterritorial service 13-3-60
failure
install, maintain, test or inspect backflow prevention assembly 13-3-110
maintain facilities 13-3-80
share, tamper with meters 13-3-20
individual service lines 13-3-90
no interference with waterworks or sewage works 13-3-40
nonacceptable waste, runoff water from construction 13-3-100
omnibus section 13-3-120
penalty 13-3-130
unauthorized use
fire hydrants 13-3-30
water 13-3-10
Utility rates and service areas Ch. 13.3
Violations and penalties 13-5-50
Water Conservation Code
installation of high-efficiency fixtures 13-5-20
landscaping 13-5-30
purpose and applicability 13-5-10
water shortages and conservation 13-5-40
Water rates 13-2-20
Water rights Ch. 13.2
Water shortages and conservation 13-5-40
Water shut-off for system maintenance 13-1-160
Wintertime taps 13-1-90

MUSIC FESTIVALS
See FESTIVAL EVENTS

-N-

NATIONAL TRUST FOR HISTORIC PRESERVATION
Amendments to IEBC Appx 15-A

NATIONAL ELECTRICAL CODE
See ELECTRICAL CODE, NATIONAL

NEWSRACKS
Compliance required 11-3-10
Definition 11-3-20
Design standards 11-3-70
Designated locations 11-3-30
Emergency removal 11-3-90
Hold harmless 11-3-110
Insurance requirements 11-3-120
Nonemergency removal 11-3-80
Number and grouping of newsracks 11-3-40
Removal
emergency 11-3-90
nonemergency 11-3-80
Rights limited 11-3-50
Stabilization requirements 11-3-60
Unauthorized newsracks 11-3-100

NUISANCES
SEE ALSO ANIMALS
Abatement 7-1-100
costs 7-1-110
Court action 7-1-90
notice 7-1-70
solid fuel burners 7-4-50
summary 7-1-60
Accumulation of refuse 7-5-530
removal 7-5-10
Administration, abatement
author of 7-1-40
complaints 7-1-30
costs of abatement 7-1-110
Court action to abate 7-1-90
definitions 7-1-10
enforcement policy 7-1-20
issuance of notice to abate 7-1-70

failure to comply 7-1-80
notice to abate 7-1-70
right of entry 7-1-50
summary abatement 7-1-60
Alarm systems 7-2-30
Author of 7-1-40
Clean Indoor Air Act
definitions 7-3-20
enforcement 7-3-70
exceptions and variances 7-3-60
legislative intent and purpose 7-3-10
posting of signs 7-3-50
regulation of smoking in places of employment 7-3-40
smoking prohibited 7-3-30
Complaints, filing 7-1-30
Compost 7-5-520
Costs of abatement 7-1-110
Definitions 7-1-10
Garbage, uncontained 7-5-510
Noise 7-2-20
Refuse
accumulation 7-5-530
burning 7-5-570
construction site 7-5-580
containers
disturbing 7-5-590
failure to remove 7-5-540
failure to use 7-5-550
improper placement 7-5-610
fines, penalties 7-5-620
improper disposal 7-5-560
Right of entry 7-1-50
Streams, pollution 7-2-10
Streets, pollution 7-2-10
Vehicles as residence 7-2-40
Water supplies, pollution 7-2-10

-O-

OFFENSES
Abandoned containers, appliances 10-5-50
Alcoholic beverages, open container 10-7-10
Arson 10-4-70
Battery 10-5-30
Bonfires 10-4-80
Camping and activities 10-4-60
Civil liabilities 10-6-40
Conduct, unlawful
Article 4 10-4-10
Article 5 10-5-10
Criminal mischief 10-4-20
Criminal tampering 10-4-160
Immunity for peace officers to carry weapons 10-8-30
Impersonating a peace officer or public servant 10-2-20
Littering 10-4-100
Menacing 10-5-20
Noise 7-2-20
Obstructing
governmental operations 10-2-10
passage on streets, public places 10-3-10
peace officer, firefighter 10-2-30
Panhandling 10-10
Peace, order and decency
abandoned containers, appliances 10-5-50
battery 10-5-30
failure to report
suicide or suicide attempt 10-5-100
treatment of wounds 10-5-90
fireworks, unlawful use 10-5-80
menacing 10-5-20
throwing stone or missiles 10-5-60
urination and defecation 10-5-70
Price switching 10-4-150
Prohibited practices 10-6-20
Property
arson 10-4-70
bonfires 10-4-80
criminal mischief 10-4-20
criminal tampering 10-4-160
littering 10-4-100
price switching 10-4-150
private, injuring 10-4-30
public
camping and activities 10-4-60
injuring 10-4-30
desecrating venerated objects 10-4-40
trespassing 10-4-50
removal of earth 10-4-90
shoplifting 10-4-140
theft
generally 10-4-120
rental property 10-4-130
Reckless endangerment 10-5-40
Removal of earth 10-4-90
Resisting arrest 10-2-40
Shoplifting 10-4-140
Stealing 10-4-110
Streets and public places, interfering with use 10-3-10
Theft
generally 10-4-120

rental property 10-4-130
shoplifting 10-4-140
stealing 10-4-110
Throwing stones, missiles 10-5-60
Trespassing 10-4-50
Urination and defecation, public 10-5-70
Weapons
definitions 10-8-10
illegal, possessing 10-8-40
immunity for peace officers 10-8-30
unlawful use 10-8-20

OFFICERS, TOWN
Creation, consolidation, merging of departments, abolition Ch. 7.9
Municipal Judge appointment Ch. 8.2
Relationships Ch. 7.5
Town Attorney
appointment, compensation, powers, duties generally Ch. 8.1
relationship with Council Ch. 7.5
Town Clerk
appointment, powers, duties Ch. 7.8
boards, commissions, vacancy notice, duties Ch. 9.5
Council, Town
meetings, special, calling Ch. 4.3
vacancy notice duties Ch. 4.3
election commission membership Ch. 2.5
elector registration Ch. 2.4
initiative, referendum petitions certification Ch. 6.4
ordinance disposition signature Ch. 4.16
Town Council subcommittees 2-2-10
Town Manager Ch. 7.1
acting Manager, appointment, Mayor serving as, when Ch. 7.2
appointing authority
Clerk Ch. 7.8
Treasurer Ch. 7.6
appointment, designated chief administrative officer Ch. 7.1
budget
appropriations amendment duties Ch. 10.12
capital program preparation, submittal Ch. 10.5
preparation, submittal Ch. 10.2
duties and powers Ch. 7.3
relationship with Council Ch. 7.5
removal Ch. 7.4
Town Treasurer
appointment, appointing authority Ch. 7.6
powers, duties generally Ch. 7.7

OPEN SPACE COMMISSION
Definition of open space 2-8-50
Established; members 2-8-10
Open Space Fund 2-8-40
restrictions 2-8-40
Open space program 2-8-60
Powers and duties 2-8-20
Staff support 2-8-30

-P-

PARKING AND TRANSPORTATION FUND
Created 4-1-40

PARKING REGULATIONS
Centerlane Commercial Loading Zone restrictions 8-2-60
Failure to respond to summons 8-2-70
Idling, prolonged, prohibited 8-2-20
Illegal parking, presumption 8-2-80
Inadequate muffling 8-2-30
Major festival events 8-2-40
Penalty assessments 8-2-90
Registration and licensing 8-2-10
Seasonal restrictions 8-2-50

PARKS AND RECREATION COMMISSION
Duties 2-9-20
Established 2-9-10
Membership 2-9-30

PENALTIES
Admissions fee for festivals, events 6-3-130
failure to remit fee 6-3-60
Animal care, keeping 7-6-220
Building Code 15-1-40
Building street address number 15-15-70
Business license 6-1-90
delinquency charges 6-1-100
Charter Ch. 14.8
Construction mitigation 15-11-30
Cross-connection control 13-4-30
Discriminatory practices 10-6-30
additional penalties 10-6-50
Dogs 7-6-400
Electrical Code 15-4-40

Energy Codes 15-9-50
Ethics Code 2-4-230
Events regulations 6-3-130
Excise tax 4-4-180
delinquency interest 4-4-50
Festival events
nonpayment of admissions fee 6-3-60
violations 6-3-130
Fire Code 15-6-50
General 1-4-10
application to juveniles 1-4-20
Hang gliding 10-9-30
Mechanical Code 15-7-40
Model Traffic Code 8-1-50
Municipal utilities, unauthorized practices 13-3-130
Operating, standing, stopping, parking 8-2-90
Parking 8-2-90
Plumbing Code 15-5-40
Refuse nuisance 7-5-620
penalty schedule 7-5-340
Sales tax
deficiency 4-2-390
duty of taxpayer 4-2-810
Solid fuel burners 7-4-80
Use tax 4-2-810
Vehicle abandonment, impoundment 8-3-70
Vending licenses 6-4-70
Water conservation 13-5-50

PLASTIC BAGS PROHIBITION 7-7-30

PLUMBING CODE, INTERNATIONAL
Adoption 15-5-10
Amendments 15-5-30
Appeals 15-5-50
Copy on file 15-5-20
Penalty 15-5-40

PROCUREMENT CODE
Bidders, offerors responsibility 4-6-290
General provisions
application of provisions 4-6-40
definitions 4-6-50
procurement contrary to Article 4-6-20
public access to procurement information 4-6-60
purpose 4-6-10
requirement of good faith 4-6-30
specifications 4-6-70
Legal and contractual remedies
authority to debar or suspend 4-6-620
authority to resolve protested solicitations and awards 4-6-610
Methods of disposal
grant-funded equipment 4-6-550
hazardous materials 4-6-530
methods 4-6-520
reporting 4-6-510
sales to employees 4-6-540
Procurement organization, authority
approvals 4-6-140
authority and duties of Town Manager 4-6-110
authority of Town Attorney 4-6-130
business license required 4-6-160
duties of department heads, Procurement Officer 4-6-120
formal contract procedure 4-6-150
Source selection, contract formation
bid security 4-6-310
bond forms and copies 4-6-330
cancellation of invitations for bids or requests for proposal 4-6-280
competitive sealed
bids 4-6-220
proposals 4-6-230
contract
clauses 4-6-360
modifications and change orders, fiscal responsibility 4-6-370
performance and payment bonds 4-6-320
emergency procurement 4-6-260
finality of determinations 4-6-400
methods of source selection 4-6-210
miscellaneous exemptions 4-6-250
multi-term contracts 4-6-350
prequalification of suppliers 4-6-300
reporting of anti-competitive practices 4-6-410
responsibility of bidders and offerors 4-6-290
retention of procurement records 4-6-420
right to
audit records 4-6-390
inspect plant 4-6-380
small purchases 4-6-240
State, federal or CML bid 4-6-270
type of contracts 4-6-340

PROPERTY MAINTENANCE CODE, INTERNATIONAL
Adoption 15-10-10
Appeals 15-10-50
Copy on file 15-10-20
Penalty 15-10-30

PROPERTY TAX
Levy authority Ch. 12.1
Museum tax revenue dedication 4-5-20
Revenue dedication 4-5-10

PUBLIC IMPROVEMENTS REIMBURSEMENT
Agreement required 15-14-50
Amount subject to reimbursement 15-14-40
Collection and reimbursement 15-14-60
Contract recordation 15-14-90
Developer's responsibility 15-14-20
Fulfillment of contract 15-14-80
Policy 15-14-10
Specifications of required improvements 15-14-30
Terms of agreement 15-14-70

PUBLIC UTILITIES CONSTRUCTION
Building Code compliance 11-2-10
Notice to Town 11-2-30
Restoration 11-2-20

-R-

REAL ESTATE TRANSFER TAX
Amount 4-3-50
Annual report to Council 4-3-100
Application for exemption 4-3-70
Collection
action 4-3-170
closing agent, by 4-3-120
County, by 4-3-130
Definitions 4-3-10
Delinquency, interest 4-3-140
notice 4-3-160
Enforcement by Town Manager 4-3-90
Evasion by artifice or device 4-3-190
Exemption, grounds 4-3-60
Liability for payment 4-3-40
Lien status 4-3-150
Notice of delinquency 4-3-160
Payment liability 4-3-40
Property outside Town 4-3-80
Recording without payment 4-3-180
Remedies cumulative 4-3-200
Report of transfer 4-3-110
Revenue dedication 4-3-30
Tax imposed 4-3-20

REFUSE
See also GARBAGE
Collection charges
applicability 7-5-310
billing 7-5-350
deduction from rent by tenant 7-5-370
delinquency policy 7-5-380
exemption 7-5-60
revocation, notification to Town 7-5-600
interest 7-5-360
liability of owner and occupant 7-5-330
mandatory payment 7-5-320
personal collection 7-5-390
property lien 7-5-400
rate and penalty schedule 7-5-340
service termination 7-5-410
Collection requirements
applicability 7-5-110
authority of Town to collect 7-5-30
containers
disturbing 7-5-590
failure to remove 7-5-540
failure to use 7-5-550
improper placement 7-5-610
placement on collection days 7-5-160
required 7-5-120
Dumpster
improper placement 7-5-610
pads 7-5-150
standards 7-5-140
non-Dumpster container standards 7-5-130
schedule 7-5-180
separation of recyclable materials 7-5-190
tree trimmings 7-5-170
yard clippings 7-5-170

REFUSE
See also GARBAGE
Containers
disturbing 7-5-590
failure to remove 7-5-540
failure to use 7-5-550
improper placement 7-5-610
placement on collection days 7-5-160
required 7-5-120
Fines for violation 7-5-620
Garbage, uncontained 7-5-510
Nuisances and offenses
accumulation 7-5-530
burning 7-5-570
construction site 7-5-580
containers
disturbing 7-5-590
failure to remove 7-5-540

failure to use 7-5-550
improper placement 7-5-610
fines, penalties 7-5-620
improper disposal of refuse 7-5-560
Penalty for violation 7-5-620
Removal
accumulation 7-5-10
collection by Town authorized 7-5-30
construction sites 7-5-20
contract for collection 7-5-40
exemption from collection charges 7-5-60
revocation, notification to Town 7-5-600
private removal 7-5-50

RENTAL HOUSE 6-1-10

RESIDENTIAL CODE, INTERNATIONAL
Adoption 15-2-10
Amendments 15-2-30
Appeals 15-2-50
Copy on file 15-2-20
Penalty 15-2-40

REUSABLE MATERIALS 7-1-10
7-5-120(F)

REVENUE AND FINANCE
See FINANCE, FUNDS, SALES AND USE TAX

-S-

SALES AND USE TAX
Acquisition, inception or cessation of business 4-2-180
Audit
coordinated 4-2-290
of record 4-2-280
Bankruptcy and receivership, status of tax due 4-2-510
Civil action to recover tax due 4-2-480
Collection, retailer responsible for 4-2-190
Credit sales 4-2-170
Deductions from gross sales 4-2-160
Definitions 4-2-20
Distraint and sale 4-2-500
Duty to keep books and records 4-2-230
Exemptions
sales tax 4-2-140
burden of proof 4-2-150
use tax 4-2-630
exemption certificate required 4-2-650
Filing returns 4-2-210
Finance Director authority 4-2-270
General powers Ch. 13.1
Imposition, collection of sales tax 4-2-110
Intercity claims for recovery 4-2-350
Interest 4-2-400
Jeopardy assessment 4-2-490
Levied, use tax 4-2-610
Lien
for tax due 4-2-450
performance 4-2-460
release 4-2-470
Limitation of actions, refunds 4-2-680
Map of municipal boundaries for collection of use tax 4-2-760
Neglect or refusal to make return or to pay use tax 4-2-710
Notice of assessment 4-2-410
denial of refund 4-2-420
protest of 4-2-420
Payment requirements on use tax, exemption certificate 4-2-650
Penalties 4-2-390
Proration for certain construction equipment 4-2-640
Purpose of use tax 4-2-10
Rate 4-2-110
Rate of interest on use tax 4-2-730
Reporting periods 4-2-220
Sales tax
exemptions 4-2-140
burden of proof 4-2-150
imposition, collection 4-2-110
license
application and content 4-2-250
cancellation or revocation 4-2-260
required 4-2-240
Neglect or refusal to make return or to pay use tax 4-2-710
Notice of assessment 4-2-410
denial of refund 4-2-420
protest of 4-2-420
Payment requirements on use tax, exemption certificate 4-2-650
Penalties 4-2-390
Proration for certain construction equipment 4-2-640
Purpose of use tax 4-2-10
Rate 4-2-110
Rate of interest on use tax 4-2-730
Reporting periods 4-2-220
Sales tax
exemptions 4-2-140

burden of proof 4-2-150
imposition, collection 4-2-110
license
application and content 4-2-250
cancellation or revocation 4-2-260
required 4-2-240
schedule 4-2-120
transactions, items and services subject to 4-2-130
Statute of limitations 4-2-820
Tax
deficiencies
determined through audit 4-2-380
from failure to file 4-2-370
information confidential 4-2-300
overpayment from returns 4-2-310
claim for refund 4-2-340
determined through audit 4-2-320
refunds of disputed 4-2-330
underpayment from returns 4-2-360
Taxpayer remedies
appeals 4-2-440
hearings 4-2-430
protest of notice of assessment 4-2-420
Trust status of tax in possession of retailer 4-2-200
Use tax
collection, limitation of actions 4-2-670
deficiency due to negligence 4-2-700
dispute resolution and appeal 4-2-770
exemptions 4-2-630
interest on underpayment, nonpayment, extensions of time for payment 4-2-690
levied 4-2-610
map of municipal boundaries for collection 4-2-760
neglect or refusal to make return or to pay 4-2-710
other remedies 4-2-740
payment requirements on building and construction use tax, exemption certificate 4-2-650
penalty interest on unpaid use tax 4-2-720
proration for certain construction equipment 4-2-640
rate of interest 4-2-730
refunds, limitations of actions 4-2-680
revenue dedication 4-2-620
Town final decision 4-2-750
vehicle use tax 4-2-660
Violations; summons and complaints; penalty 4-2-810

SEAL
Town 1-6-10
Use authorized 1-6-20

SHORT TERM RENTAL UNIT 6-1-10

SEWER UTILITY
See MUNICIPAL UTILITIES

SIDEWALKS
See STREETS, SIDEWALKS AND PUBLIC PROPERTY

SOLID FUEL BURNERS
Abatement 7-4-50
Administration 7-4-30
Appeals to Board of Adjustments and Appeals 7-4-70
Colorado Department of Public Health and Environment 7-4-90
Definitions 7-4-10
General rules and regulations 7-4-40
Investigation and noncompliance 7-4-60
Penalties 7-4-80
Standards for regulation of devices 7-4-20

SPECIAL EVENTS
See FESTIVAL EVENTS

STREETS, SIDEWALKS AND PUBLIC PROPERTY
Assessment 11-1-50
Contents of notice 11-1-20
Festival events
see also FESTIVAL EVENTS
admissions fee 11-4-40
advance notice of impacts 11-4-20
crowd size limit in Town Park 11-4-30
definitions 11-4-10
exemption procedure 11-4-70
indemnification and insurance 11-4-50
permit required 11-4-60
violations, fine 11-4-80
Grades 11-1-80
Materials and standards 11-1-70
Newsracks
compliance required 11-3-10
definition 11-3-20
design standards 11-3-70
designated locations 11-3-30
emergency removal 11-3-90
hold harmless 11-3-110
insurance requirements 11-3-120

nonemergency removal 11-3-80
number and grouping of newsracks 11-3-40
removal
emergency 11-3-90
nonemergency 11-3-80
rights limited 11-3-50
stabilization requirements 11-3-60
unauthorized newsracks 11-3-100
Petition to Council, Council initiation 11-1-10
Public nuisance 11-1-110
Public utilities construction
Building Code compliance 11-2-10
notice to Town 11-2-30
restoration 11-2-20
Service of notice 11-1-30
Snow and ice removal 11-1-90
Town action upon default 11-1-40
Violation 11-1-100
Width of sidewalks 11-1-60

-T-

TAXES
See FINANCE; EXCISE TAX; PROPERTY TAX; REAL ESTATE TRANSFER TAX; SALES AND USE TAX; TELEPHONE UTILITY TAX

TELEPHONE, EMERGENCY SERVICE
See EMERGENCY TELEPHONE SERVICE

TELEPHONE UTILITY TAX
Computation 4-7-20
Inspection of records 4-7-30
Other business taxes superseded 4-7-50
Payment 4-7-20
failure to pay 4-7-60
Purpose 4-7-40
Statement, failure to file 4-7-70
Tax levied 4-7-10

TELLURIDE ENERGY MITIGATION PROGRAM 15-9-40

THEFT
Generally 10-4-120
Rental property 10-4-130
Shoplifting 10-4-140
Stealing 10-4-110

TOWN COUNCIL
See COUNCIL, TOWN

TRAFFIC
See VEHICLES AND TRAFFIC
TREASURER, TOWN
See OFFICERS, TOWN
TRESPASSING
Unlawful 10-4-50

-U-

UNCLAIMED PROPERTY 4-8

USE TAX
See SALES AND USE TAX

-V-

VEHICLES AND TRAFFIC
Abandonment and impoundment
abandonment unlawful 8-3-10
fees 8-3-50
impounding
authority 8-3-20
grounds 8-3-30
notice and hearing 8-3-60
penalties 8-3-70
temporary immobilization 8-3-40
Model Traffic Code
adoption 8-1-10
amendments, modifications 8-1-40
applicability 8-1-30
copy of file 8-1-20
penalty 8-1-50
assessment 8-1-60
Operating, standing, stopping and parking
Centerlane Commercial Loading Zone 8-2-60
failure to respond to summons 8-2-70
inadequate muffling 8-2-30
parking during major festival events 8-2-40
penalties 8-2-90
presumption in reference to illegal parking 8-2-80
prolonged idling of motor 8-2-20
seasonal parking restrictions for plowing 8-2-50

Registration and licensing 8-2-10

VENDING LICENSES
Activities allowed without a permit 6-4-30
Appeals 6-4-80
Definitions 6-4-20
Nonprofit waivers 6-4-60
Penalties 6-4-70
Purpose 6-4-10
Vending on
private property 6-4-50
public property 6-4-40

-W-

WASTEWATER SERVICE
See MUNICIPAL UTILITIES

WATER UTILITY
See MUNICIPAL UTILITIES

WEAPONS
Definitions 10-8-10
Illegal, possessing 10-8-40
Immunity for peace officers 10-8-30
Unlawful use 10-8-20

-Z-

ZONING
See also LAND USE CODE
(Published under separate cover)

STATE OF COLORADO
TOWN OF TELLURIDE, COLORADO

ORDINANCE NO. 1288
(Series of 2008)

AN ORDINANCE OF THE TOWN OF TELLURIDE, ADOPTING BY REFERENCE AND ENACTING A NEW MUNICIPAL CODE FOR THE TOWN OF TELLURIDE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

Be It Ordained by the Town Council of the Town of Telluride, Colorado:

Section 1. The Code entitled the *Telluride Municipal Code,* published by Colorado Code Publishing Company, consisting of Chapters 1 through 18, with Appendix, Tables and Index, is hereby adopted.

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

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

(1) The *Model Traffic Code for Colorado*, 1995 edition, published by the Colorado Department of Transportation, as adopted and amended in Section 8-1-10, et seq.;

(2) The *Uniform Building Code*, 1997 edition, published by the International Conference of Building Officials, as adopted and amended in Section 15-1-10, et seq.;

(3) The *Uniform Code for Building Conservation*, 1997 edition, published by the International Conference of Building Officials, as adopted and amended in Section 15-2-10, et seq.;

(4) The *Uniform Code for the Abatement of Dangerous Buildings*, 1997 edition, published by the International Conference of Building Officials, as adopted and amended in Section 15-3-10, et seq.;

(5) The *National Electrical Code*, 1996 edition, published by the National Fire Protection Association, as adopted in Section 15-4-10;

(6) The *Uniform Administrative Provisions for the National Electrical Code*, 1996 edition, published by the National Fire Protection Association, as adopted and amended in Section 15-4-40, et seq.;

(7) The *Uniform Plumbing Code*, 1997 edition, published by the International Association of Plumbing and Mechanical Officials, as adopted and amended in Section 15-5-10, et seq.;

(8) The *Uniform Fire Code*, 1997 edition, published by the International Fire Code Institute, as adopted in Section 15-6-10;

(9) The *Uniform Mechanical Code*, 1997 edition, published by the International Conference of Building Officials, as adopted and amended in Section 15-7-10, et seq.; and

(10) The *Uniform Sign Code*, 1997 edition, published by the International Conference of Building Officials, as adopted and amended in Section 15-8-10, et seq.

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

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

(a) No person shall violate or fail to comply with any of the provisions of this Code or the ordinances of the Town. Except in cases where a different punishment is prescribed by any ordinance of the Town:

(1) Any person who violates any criminal provision of this Code or any ordinance of the Town shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment, except as provided in Section 1-4-20 below.

(2) Any person who violates any noncriminal provision of this Code or any ordinance of the Town shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars ($1,000.00), except as provided in Section 1-4-20 below.

(b) Each such person shall be guilty of a separate violation for each and every day during any portion of which any violation of any provision of this Code or the ordinances of the Town is committed, continued or permitted by any such person, and such person shall be punished accordingly.

(2) Sec. 1-4-20. Application of penalties to juveniles. (Chapter 1, Article 4, General Penalty)

(a) 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.

(b) If an alleged offender was at the time of the alleged offense under the age of eighteen (18) and over the age of nine (9), the Municipal Court does not have jurisdiction to sentence the offender to a jail term of any duration unless the offender has been convicted for a violation of a traffic offense under Chapter 8 of this Code.

(3) Sec. 2-3-210. Failure to pay fine. (Chapter 2, Article 3, Municipal Court)

(a) Any person who, in a criminal action, has been sentenced to a fine under this Code, and who fails to make full and timely payment of the fine upon demand, may be summarily imprisoned until the fine is completely paid. Each hour of confinement shall count as the payment of one dollar ($1.00) of the fine. The Municipal Court may stay imprisonment if the person in default promises to pay the fine in installments fixed by the Municipal Court. If such person then defaults on the payment of any installment, the stay of imprisonment shall immediately terminate.

(b) Any person who has been found liable in a civil action and against whom judgment has been rendered under this Code, and who fails to make full and timely payment of the judgment upon demand, shall be subject to any proceeding for satisfaction available under state law, including but not limited to garnishment of funds and denial of renewal of his or her driver's license.

(4) Sec. 2-3-220. Community service. (Chapter 2, Article 3, Municipal Court)

The Municipal Court may allow any person who has admitted violating, or who is found to have violated, any provision of this Code for which a fine is imposed, to perform community service work for the Town in exchange for all or a portion of such fine upon a determination that such person cannot pay all or a portion of the fine without undue hardship.

(5) Sec. 2-4-230. Penalty. (Chapter 2, Article 4, Ethics Code)

(a) The Town Council may reprimand or censure any Town official, including Town Councilpersons, for violation of any of the provisions of this Article.

(b) The Town Council shall have good cause to remove any member of a Town board or commission for violation of any of the provisions of this Article, pursuant to the provisions of Section 9.4 of the Home Rule Charter.

(c) The Town Manager may reprimand or take disciplinary action against any Town employee for violation of the provisions of this Article pursuant to the Town's Personnel Policies.

(6) Sec. 4-2-390. Penalties. (Chapter 4, Article 2, Sales and Use Tax)

A penalty shall be levied for any tax deficiency.

(1) Penalty for late payment. For transactions consummated after the effective date of the ordinance codified herein, the penalty for late payment shall be fifteen dollars ($15.00) or ten percent (10%) of the tax deficiency, whichever is greater. Additionally, one percent (1%) of the tax deficiency per month from the date when due, not exceeding eighteen percent (18%) in the aggregate, shall be assessed.

(2) Penalty for fraud. If any tax deficiency is due to fraud or intent to evade the tax, the penalty shall be one hundred percent (100%) of the total tax deficiency.

(3) Abatement of penalty. Any penalty assessed under this Section may be abated by the Finance Director, with the approval of the Town Manager, if the taxpayer submits a written request for such abatement on or before the payment date of the applicable notice of assessment, and if the Finance Director and the Town Manager find good cause thereof.

(7) Sec. 4-2-710. Neglect or refusal to make return or pay. (Chapter 4, Article 2, Sales and Use Tax)

If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required, the Town Manager shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to ten percent (10%) thereto and interest on such delinquent taxes at the rate imposed under Section 4-2-730 below, plus one percent (1%) per month from the date due.

(8) Sec. 4-2-720. Penalty interest upon unpaid use tax. (Chapter 4, Article 2, Sales and Use Tax)

Any use tax due and unpaid shall be a debt to the Town and shall draw interest at the rate imposed under Section 4-2-730 below, in addition to the interest provided by Section 4-2-740, from the time when due until paid.

(9) Sec. 4-3-140. Delinquency; interest. (Chapter 4, Article 3, Real Estate Transfer Tax)

The real estate transfer tax imposed under this Article is due and payable at the time of the transfer of the real property, and is delinquent if it remains unpaid for thirty (30) days thereafter. In the event that the tax is not paid prior to becoming delinquent, a delinquency penalty of fifteen percent (15%) of the amount of tax due shall accrue. In the event a portion of the tax is paid prior to becoming delinquent, the penalty shall only accrue as to the portion which is delinquent, and interest shall accrue at the rate of one and one-half percent (1.5%) per month, or fraction thereof, on the amount of tax, exclusive of penalties, from the date the tax becomes delinquent to the date of payment. Interest and penalty accrued shall become part of the tax.

(10) Sec. 4-4-50. Collection and remittance of tax; vendor collection fee; delinquency interest and penalty. (Chapter 4, Article 4, Excise Tax)

(a) All vendors subject to this Article shall timely collect and be liable for an amount equivalent to two percent (2%) of the price or cost paid for lodging rentals and for food and drink sold in a restaurant or bar as specified in Subsection 4-4-30(a) of this Article, and shall, before the twentieth day of each month, make a return to the Town for the preceding calendar month and remit said collected tax amounts to the Town; however, in the event the tax collected in a month is less than three hundred dollars ($300.00), then the return and remittance may be performed at the end of the calendar quarter. Vendors shall compute and add the two-percent tax to all taxable amounts in accordance with the tax schedule established by the Finance Director, said schedule to be designed so that no tax is imposed and collected on a sale or charge of seventeen cents ($0.17) or less.

(h) Interest shall accrue on all delinquent or deficient payments of the excise tax from the date of delinquency or underpayment to the date of full payment at the rate of one percent (1%) per month. Interest shall be calculated for each month, or portion of a month, that a tax delinquency or deficiency remains unpaid. A penalty equal to ten percent (10%) of the delinquent or deficient tax amount shall also be paid, unless the delinquency or deficiency is due to fraud or an intent to evade the tax, in which case the penalty shall be one hundred percent (100%) of the total amount of such delinquency or deficiency, and the same shall be due and paid, along with the unpaid tax, within twenty (20) days after written notice and demand for payment is made by the Town. No interest shall be allowed or paid on any overpayment of the excise tax.

(11) Sec. 4-4-100. Failure to collect tax or file return; recovery of tax deficiencies. (Chapter 4, Article 4, Excise Tax)

(a) All sums of money paid as taxes imposed under this Article shall be and remain public funds and the property of the Town, and all vendors or other persons collecting the same shall hold the funds in trust for the sole use and benefit of the Town until paid to the Town.

(b) If a taxpayer neglects or refuses to collect or pay the tax imposed under this Article, or neglects or refuses to make a return, the Finance Director shall make an estimate of the amount of the tax due for the period for which the taxpayer is delinquent based upon the information that may be available, and shall add thereto a penalty equal to ten percent (10%) of the delinquent amount unless the delinquency is found to be due to fraud or an intent to evade the tax, in which case the penalty shall be one hundred percent (100%) of the delinquent amount, plus interest at one percent (1%) per month on both the delinquent amount and the penalty from the date when the taxes were due. Promptly thereafter, the Finance Director shall provide to the delinquent taxpayer a written delinquency notice of such estimated tax, along with the penalty and interest applicable thereto, which notice shall be sent by certified mail to the last address for the taxpayer on record with the Town. The notice shall also set forth in clear and conspicuous type that the delinquent taxpayer has the right to elect a hearing on the deficiency before the Town Manager. Such estimate shall thereupon become an assessment and the amount therein shall be final and due and payable from the taxpayer to the Town twenty (20) days from the date of mailing; provided, however, that, within said twenty-day period, the delinquent taxpayer may appeal the assessment to the Town Manager for a modification or other action. Any appeal must be filed in writing with the Town Manager, with a copy to the Finance Director, and shall describe in plain language the grounds for such appeal and the relief requested from the assessment.

(c) When a timely appeal is filed in accordance with this Section, no further enforcement action will be instituted by the Town on such portion of the assessment being appealed, unless the taxpayer fails to pursue the appeal.

(d) If any taxes, penalty or interest imposed by this Article and shown due by returns filed by a taxpayer, or as shown by assessments duly made as provided herein, are not paid within five (5) days after the same are due, the Finance Director shall issue a notice setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the Town claims a first and prior lien therefor on the real and tangible personal property of the taxpayer; except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice as herein provided on property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer. Said notice shall be on forms prepared by the Finance Director, shall be verified by him or her or by any duly qualified agent of the Town whose duties are the collection of such tax, and may be filed in the office of the clerk and recorder of any county in the State in which the taxpayer owns real or tangible personal property. The filing of such notice shall create a lien on such property in that county and constitute a notice thereof. After said notice has been filed, or concurrently therewith, or at any time when taxes due are unpaid, whether such notice is filed or not, the Town may issue a warrant directed to any duly authorized revenue collector or to the sheriff of any county in the State commanding him or her to levy upon, seize and sell sufficient of the real and personal property of the tax debtor found within his or her county for the payment of the amount due, together with interest, penalties and costs, subject to valid pre-existing claims or liens as above provided.

(e) When performing under this Section, revenue collectors or sheriffs shall levy upon sufficient property of the taxpayer, or on property used by such taxpayer in conducting his or her business, and said property so levied upon shall be sold in all respects, with like effect and in the same manner as is prescribed by law in respect to executions against property upon a judgment of a court of record, and the remedies of garnishments shall apply. The sheriff shall be entitled to such fees in executing such warrants as are allowed by law for similar services.

(f) Any lien for taxes shown on the records of a county clerk and recorder as herein provided shall, upon the payment of all taxes, penalties and interest covered thereby, be released by the Town in the same manner as mortgages or judgments are released.

(g) The Town may treat any taxes, penalties or interest due and unpaid as a debt due the Town from the taxpayer. In the case of a failure to pay the tax or any portion thereof, or any penalty or interest thereon when due, the Town may recover at law the amount of such taxes, penalties and interest in any county or district court of the county wherein the taxpayer resides, or has his or her principal place of business, and having jurisdiction of the amounts sought to be collected. The return of the taxpayer or the assessment made by the Town, as herein provided, shall be prima facie proof of the amount due. Such actions may be actions in attachment, and writs of attachment may be issued to the sheriff. In any such proceeding, no bond shall be required of the Town, nor shall any sheriff require of the Town an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings; and the Town may prosecute appeals in such cases without the necessity of providing bond therefor. It shall be the duty of the Town Attorney when requested by the Town Manager to commence an action for the recovery of taxes due under this Article, and the remedy shall be in addition to all other existing remedies, including the remedies provided in this Article.

(h) In any action affecting the title to real estate or the ownership or rights to possession of personal property upon which the Town has asserted a lien, the Town may be made a party defendant for the purpose of obtaining a judgment or determination of its lien upon the property involved therein.

(12) Sec. 6-1-100. Delinquency charges penalty. (Chapter 6, Article 1, Business Licenses)

(a) A delinquency charge for failure to comply with any provision of Section 6-1-40 above shall accrue five (5) days after a license is required in the amount of fifteen dollars ($15.00), or up to five percent (5%) per month (or fraction thereof), not to exceed a total of twenty-five percent (25%) of the amount due, whichever is greater.

(b) The Town may issue a summons and complaint sixty (60) days after the business license fee is due, charging a person with failure to comply with this Article. A violation of any part of this Article is punishable for each day of violation by a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code. A minimum fine, in the amount of one-half percent (.5%) per day of the amount of the business license fee for each day of noncompliance from the date the fee is due through the date of sentencing, is mandatory and may not be suspended by the court. Each day of violation is a separate offense.

(c) The Town may also seek an injunction to restrain a person from engaging in business within the Town who does not obtain an annual business license, or has his or her license revoked or suspended.

(d) All these remedies shall be in addition to all other remedies and penalties provided for by local ordinance or available at law.

(13) Sec. 6-2-130. Renewal fines. (Chapter 6, Article 2, Liquor Licenses)

Applications for renewal of an existing license must be received by the Town Clerk not less than forty-five (45) days prior to the date of expiration. The fine for late application shall be imposed in the amount of ten dollars ($10.00) per day until the expiration date. If the applicant does not agree to pay the fine, the deadline for filing shall not be waived. In such case, the Town Clerk shall not accept or process the renewal application and shall require an application for issuance of a new liquor license. Upon payment of the fine for late application and submittal of a complete application, the expiration date of the existing license shall be extended until the application is granted or denied. If all application forms and documentation, including state and local license fees and fines, are not received by 5:00 p.m. on the date of expiration, the license will be deemed expired except where the requirements of Section 12-47-302, C.R.S., are met.

(14) Sec. 6-3-60. Failure to remit; penalties for nonpayment. (Chapter 6, Article 3, Admission Fees for Festivals and Events in Town)

Every vendor required to collect an admissions fee by this Article who fails to collect the same or fails to remit the fee shall be personally liable to the Town for the amount of the fee. Any person required to collect or remit the fee imposed by this Article who fails to remit the amount of the fee when due shall, in addition to all other penalties, pay a penalty of fifteen percent (15%) of the amount due. For each successive thirty (30) days elapsing before payment, there shall be added an additional penalty of five percent (5%) on the original unpaid amount of the fee due.

(15) Sec. 6-4-70. Penalties. (Chapter 6, Article 4, Vending)

(a) Violation of any of the provisions of this Article shall be a misdemeanor, punishable as set forth in Paragraph 1-4-10(a)(1) of this Code.

(b) Violations or noncompliance with any permit condition or provision of this Article may also result in immediate suspension or revocation of any vending permit by the Town Clerk, subject to the right of hearing within three (3) business days after any such suspension upon request of the permit holder.

(16) Sec. 7-2-40. Use of vehicles as residences. (Chapter 7, Article 2, Nuisances)

(a) Purpose. The unauthorized use of vehicles as residences within public rights-of-way and on public property is deemed to be injurious to residential and nonresidential neighborhoods alike and conducive to the creation and perpetuation of congestion, unwanted noise, sanitation problems, unsightly visual conditions and confrontations between residents and nonresidents. The intent and purpose of this Section is not to regulate vehicles or those locations where vehicles may be parked or stored, but to prohibit activities and occupancies within vehicles so as to protect the integrity of neighborhoods, preserve public streets, rights-of-way and parks for their intended public purposes, ensure the proper use of public property in conformity with zoning and land use regulations and promote the public health and safety.

(b) Definition. As used in this Section, unless the context otherwise requires, the term *vehicle* shall mean any device which is capable of moving itself, or being moved, from place to place upon wheels.

(c) Prohibitions. No person shall occupy any vehicle upon any municipal street, state highway, alley, public right-of-way or public property for the purpose of providing a residence or residential living or sleeping quarters or storage, whether temporary or permanent. The type or nature of any given vehicle shall not be conclusive as to whether a vehicle is being occupied for living or sleeping quarters or other residential use.

(d) Exemptions. The prohibitions as contained in this Section shall not apply to activities undertaken pursuant to a valid and authorized land use, building or camping permit issued by the Town.

(e) Penalty. Persons convicted of violating the terms of this Section shall be subject to a fine of not more than one hundred dollars ($100.00) for each separate offense, up to and including the third offense. For each conviction after the third offense, a person shall be subject to a fine of not more than three hundred dollars ($300.00) and/or imprisonment not to exceed three (3) days.

(17) Sec. 7-3-70. Enforcement and penalties. (Chapter 7, Article 3, Clean Indoor Air Act)

(a) The Town Manager shall be responsible for compliance with this Article with regard to facilities which are owned, operated or leased by the Town.

(b) It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to Section 7-3-30 of this Article.

(c) Smoking and the improper disposal of the unused remainder or any remnants from smoking, including what may be popularly termed "cigarette butts," may result in an independent violation of Section 10-4-100 of this Code if a person throws or leaves litter on any premises to which he or she does not have lawful possession. Such littering provisions apply to, among other things, all public sidewalks and rights-of-way as well as all private areas, including entryways, covered by the provisions of the Clean Indoor Air Act. The provisions of this Article regarding littering are intended to be directly applicable to all owners, operators, managers or employees of any premises subject to the Clean Indoor Air Act.

(d) Owners, operators, managers or employees of any premises subject to Section 7-3-30 of this Article shall be required to notify persons in violation of this Article of any of the provisions of this Article. The duty to so notify a violator shall arise when such person becomes aware of such violation. It is unlawful for a person who owns, manages, operates or otherwise controls the use of a premises subject to Section 7-3-30 of this Article to violate or to otherwise permit any person to violate the provisions of the Clean Indoor Air Act.

(e) Violation of any of the provisions of this Article is hereby declared to be a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars ($200.00) for a first violation within a calendar year, a fine not to exceed three hundred dollars ($300.00) for a second violation within a calendar year and a fine not to exceed five hundred dollars ($500.00) for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation. Any citizen may register a written complaint for violation of this Article with the Town Marshal's office or the Town Manager.

(f) The Municipal Court shall transmit all such moneys collected for violations of the Clean Indoor Air Act, with the exception of any penalties for a nuisance violation described below, as follows: seventy-five percent (75%) of any such fine for a violation shall be transmitted to the

Finance Director and the remaining twenty-five percent (25%) shall be transmitted to the State Treasurer, who shall credit the same to the General Fund.

(g) In addition to the enforcement options above described, a citizen may elect to treat a violation of the Clean Indoor Air Act as a public nuisance, which may be abated pursuant to the provisions of Article 2 of this Chapter. Any such citizen may commence an action in Municipal Court by a summons and complaint to enforce the provisions of this Chapter pursuant to the procedures set forth in Article 2 of this Chapter.

(h) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(18) Sec. 7-4-80. Penalties. (Chapter 7, Article 4, Solid Fuel Burners)

Any person, upon conviction of a violation of any provision of this Article, shall be subject to a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code for each separate offense, and may be enjoined from any further or continued violation of this Article.

(19) Sec. 7-5-620. Fines, penalty. (Chapter 7, Article 5, Refuse)

(a) It shall be unlawful for any person to violate any provision of this Article.

(b) Any person who is found to have violated, or who acknowledges violating any provision of this Article, shall be fined an amount not less than shown on the following schedule, and not to exceed the maximum fine as set forth in Paragraph 1-4-10(a)(2) of this Code:

(1) First offense within twelve (12) successive calendar months: fifty dollars ($50.00).

(2) Second offense within twelve (12) successive calendar months: two hundred fifty dollars ($250.00).

(3) Third offense within twelve (12) successive calendar months: Summons.

(20) Sec. 7-6-220. Fines, penalty assessments and other penalties. (Chapter 7, Article 6, Animals)

(a) It is unlawful for any person to violate any provision of this Division.

(b) Any person who is found to have violated, or who acknowledges violating Section 7-6-120 or Subsection 7-6-130(a) of this Article shall be fined an amount not less than seventy-five dollars ($75.00) and shall be subject to a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code. Any person who is found to have violated, or who acknowledges violating, Section 7-6-210 above shall be fined:

(1) Fifty dollars ($50.00) for the first offense within twelve (12) successive calendar months;

(2) Two hundred fifty dollars ($250.00) for the second offense within twelve (12) successive calendar months; and

(3) A summons to appear in Municipal Court for the third offense within twelve (12) successive calendar months.

(c) Any person who is found to have violated, or who acknowledges violating, any provision of this Division, except as set forth in Subsection (b) above, shall be subject to a fine of not less than fifty dollars ($50.00) and not to exceed the maximum fine as set forth in Paragraph 1-4-10(a)(1) of this Code.

(d) Penalty assessments: noncompanion animal, at large and hitching violations. Any person who is issued a citation for violation of Section 7-6-110, 7-6-140 or 7-6-150 of this Article may be offered a penalty assessment of fifty dollars ($50.00) by a peace officer.

(21) Sec. 7-6-400. Fines, penalty assessments and other penalties. (Chapter 7, Article 6, Animals)

(a) It is unlawful for any person to violate any provision of this Article.

(b) Failure to license violations. Failure to obtain a license in violation of Section 7-6-310 of this Article constitutes a separate violation for each week, or part of a week, during which the dog continues to be unlicensed. Any person found guilty of violating or who acknowledges violating Section 7-6-310 shall be subject to a maximum penalty set forth in Paragraph 1-4-10(a)(1) of this Code, together with court costs, but in no event shall the fine be an amount less than seventy-five dollars ($75.00).

(c) Failure to remove violations. Any person found to have violated, or who acknowledges violating, Subsection 7-6-350(b), (c), (d), (e) or (f) of this Article shall be fined an amount not less than fifty dollars ($50.00) and not greater than the amount set forth in Paragraph 1-4-10(a)(2) of this Code.

(d) Threatening behavior violations. Any person found guilty of violating or who acknowledges violating Section 7-6-350(g) of this Article shall be subject to a maximum penalty set forth in Paragraph 1-4-10(a)(1) of this Code, together with court costs, but in no event shall the fine be an amount less than seventy-five dollars ($75.00).

(e) Vicious behavior violations. An alleged violation of Subsection 7-6-350(h) of this Article shall require a hearing before the Municipal Court, unless waived by the Town Prosecutor. Any person found guilty of violating, or who acknowledges violating, Subsection 7-6-350(h) shall be subject to a maximum penalty set forth in Paragraph 1-4-10(a)(1) of this Code, together with court costs, but in no event shall the fine be an amount less than one hundred dollars ($100.00). Any person found guilty of violating, or who acknowledges violating, Subsection 7-6-350(h) shall be required to pay the medical bills of any victim of the subject dog's vicious behavior that resulted from the vicious behavior and to pay any other appropriate restitution as ordered by the Municipal Court. A vicious dog is declared further to be a threat to public safety and welfare and, upon notice as set forth in Section 7-6-180 of this Article and a hearing as required pursuant to Subsection 7-6-200(c) of this Article, the Municipal Court may order that the dog be banished from the Town or destroyed in a humane manner or any other sanction as provided for in Subsection (j) below.

(f) Wildlife harassment violations. Any person found guilty of violating or who acknowledges violating Section 7-6-390 of this Article shall be subject to a maximum penalty set forth in Paragraph 1-4-10(a)(1) of this Code, together with court costs, but in no event shall the fine be an amount less than seventy-five dollars ($75.00).

(g) All other violations. Any person found to have violated, or who acknowledges violating, any other provision of this Article, shall be fined in an amount not less than twenty-five dollars ($25.00), and not greater than the amount set forth in Paragraph 1-4-10(a)(2) of this Code.

(h) Penalty assessments.

(1) Any person who is issued a citation for violation of any provision of this Article, except Section 7-6-310, 7-6-350(g), 7-6-350(h) or 7-6-390 of this Article, may be offered a penalty assessment by a peace officer, except as described in Subsection (i) below. The amount of the penalty assessment shall be the amount of the minimum fine as set forth above. Payment of the penalty assessment on the citation will constitute complete satisfaction of the violation if payment is received at Rebekah Hall by the court date. If not paid by that date, the penalty assessment shall double.

(2) No penalty assessment shall be offered for violations of Sections 7-6-310, 7-6-350(g), 7-6-350(h) and 7-6-390.

(i) Repeat offenders. Any person who is issued four (4) or more citations for violations of any provision of this Article within any twelve-month period that are not paid when due shall be considered a repeat offender and shall be issued a complaint and summons requiring a court appearance.

(j) Special sanctions. The Municipal Judge may impose any of the following sanctions upon recommendation of the Town Prosecutor or peace officer, against any dog owner convicted of any violation of this Article:

(1) Construction of a secure dog enclosure and may authorize an initial compliance inspection;

(2) Spaying or neutering of the dog;

(3) Obedience training or behavior modification;

(4) Responsible pet ownership class;

(5) Community service work;

(6) Prohibition from owning dogs while residing within the Town for a specified period;

(7) Use of humane training devices for behavior modification;

(8) Restitution for costs of care rendered or shelter given, costs of veterinary care and costs of medical treatment; and

(9) Treatment or counseling programs for the owners or victims.

Any sanction levied may be in lieu of or in addition to the penalty as specified in this Section.

(22) Sec. 8-1-60. Amendments. (Chapter 8, Article 1, Model Traffic Code)

(a) Article I of the MTC is hereby amended as follows:

(15)The second sentence of Section 1401(2) is amended to read as follows:

"Upon a second or subsequent conviction, such person shall be punished by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment for not more than ninety (90) days, or both such fine and imprisonment."

(34) Section 1717 is amended to read as follows:

"**1717. Conviction – attendance at driver improvement school**. Whenever a person has been convicted of or found liable for violating any provision of this code or other law regulating the operation of vehicles on highways, the court, in addition to the penalty provided for the violation or as a condition of either the probation or the suspension of all or any portion of any fine or sentence of imprisonment for a violation, may require the defendant, at his own expense, if any, to attend and satisfactorily complete a course of instruction at any designated driver improvement school located and operating in the county of the defendant's residence and providing instruction in the traffic laws of this state, instruction in recognition of hazardous traffic situations, and instruction in traffic accident prevention. Unless otherwise provided by law, such school shall be approved by the court."

(23) Sec. 8-1-70. Penalty. (Chapter 8, Article 1, Model Traffic Code)

It is unlawful for any person to violate any of the provisions of the MTC, as amended by Section 8-1-60 above. The penalties set forth below shall apply to such violations. Fines shall be paid to the Municipal Court Clerk.

(1) Minimum mandatory fine. Any person convicted of or found liable for any violation under the MTC shall be punished by a fine of no less than the amount of the penalty assessment as set forth in Subsection 8-1-80(c) below for each violation for which the person is convicted. If no penalty assessment is set forth in Subsection 8-1-80(c) for violation, then the minimum fine for such offense shall be one hundred dollars ($100.00). Minimum fines are mandatory and shall not be suspended or reduced by any court, although execution of any minimum mandatory fine may be stayed for no longer than ninety (90) days or stayed pending an appeal or a rehearing.

(2) Maximum penalty.

a. In criminal actions, the maximum penalty for each conviction is as set forth in Paragraph 1-4-10(a)(1) of this Code.

b. In civil actions, the maximum penalty for each violation is a fine not to exceed the amount set forth in Paragraph 1-4-10(a)(2) of this Code.

(3) Discretion within minimum and maximum penalties. For each violation of the MTC for which a defendant is found liable or convicted, the court may set a fine, or for criminal violations, a fine and imprisonment, so long as the fine is not less than the minimum set in Paragraph (1) above. The court may suspend any part of a term of imprisonment, as well as that part only of a fine which exceeds the minimum set in Paragraph (1) above. Whenever a conviction or finding of liability is for the violation of one (1) of the MTC sections for which a penalty assessment is available under the schedule in Subsection 8-1-80(c) below, it is the policy of the Town Council that the court's judgment

for that violation be no less severe than the "If Paid After Court Date" assessment figure for that violation, unless extenuating circumstances and justice manifestly so require. The reason for this policy is to save administrative expenses by encouraging persons accused to elect to pay penalty assessments.

(24) Sec. 8-1-80. Penalty assessment. (Chapter 8, Article 1, Model Traffic Code)

(a) Notice. A peace officer shall issue a penalty assessment notice for all traffic infractions under the MTC, as amended, and for any violation of Section 8-2-10 of this Chapter. At the time that a peace officer issues a summons for an alleged criminal violation of any section of the MTC which is listed in the schedule set forth in Subsection (c) below, the peace officer may offer a penalty assessment notice. Notwithstanding the foregoing, no penalty assessment notice shall be offered when the alleged violation has caused, or contributed to the cause of, an accident resulting in more than fifty dollars ($50.00) in damage to property or in any injury, including death, to any person; nor shall a penalty assessment notice be offered when the peace officer issuing the summons knows, or reasonably believes, that the alleged violator or vehicle has been involved in a criminal violation of any law of the Town for which there has been a conviction in a court of competent jurisdiction, and for which the sentence or judgment (be it fine or imprisonment) remains as yet unsatisfied. No person shall be entitled to elect to pay a penalty assessment under Subsection (b) below unless an offer of a penalty assessment notice has been made under this Subsection.

(b) Election. Any person offered a penalty assessment notice under Subsection (a) above may elect to pay the penalty assessment instead of proceeding to hearing or trial on the alleged violation. The amount of the penalty assessment shall be as provided in the schedule set forth in Subsection (c) below. Payment of a penalty assessment constitutes complete satisfaction of the alleged violation if the prescribed payment is received at Rebekah Hall by 5:00 p.m. on the day prior to the court date specified on the penalty assessment notice. Payment of a penalty assessment constitutes an acknowledgment of liability for the violation described in the summons or citation. If the person offered a penalty assessment notice elects not to make full and timely payment thereunder, an action on the alleged violation shall proceed as otherwise provided by law.

(c) Schedule. The following schedule sets forth the penalty assessments which may be offered for violations of Article I of the MTC. In the event a penalty assessment is not paid prior to the court hearing, the penalty assessment shall double.

Penalty Assessment Schedule		
	If Paid Prior to Court Date	***If Paid on or After Court Date***
Registration and Licensing		
TMC 8-1-10	$15.00	$30.00
Bicycles, Skateboards, Rollerblades, etc., Violations:		
MTC 109	15.00	30.00
MTC 109.5	30.00	60.00
MTC 111	30.00	60.00
MTC 221	15.00	30.00
MTC 1412	15.00	30.00
Signals, Signs, and Markings Violations:		
MTC 603	$35.00	$70.00
MTC 605	35.00	70.00
MTC 606	15.00	30.00
MTC 607	50.00	100.00
MTC 608	15.00	30.00
MTC 609	15.00	30.00
MTC 610	15.00	30.00
Rights-of-Way Violations:		
MTC 701	35.00	70.00
MTC 702	35.00	70.00
MTC 703	35.00	70.00
MTC 704	35.00	70.00
MTC 705	50.00	100.00
MTC 708	35.00	70.00
MTC 709	35.00	70.00
MTC 710	35.00	70.00
MTC 712	35.00	70.00
Pedestrian Violations:		
MTC 801	15.00	30.00
MTC 802	15.00	30.00
MTC 803	15.00	30.00
MTC 805	15.00	30.00
MTC 806	35.00	70.00
MTC 807	35.00	70.00
MTC 808	35.00	70.00
Turning and Stopping Violations:		
MTC 901	35.00	70.00
MTC 902	35.00	70.00
MTC 903	35.00	70.00
Driving, Overtaking & Passing Violations:		
MTC 1001	35.00	70.00
MTC 1002	35.00	70.00
MTC 1003	35.00	70.00
MTC 1004	35.00	70.00
MTC 1005	35.00	70.00

Penalty Assessment Schedule (Cont'd)		
	If Paid Prior to Court Date	*If Paid on or After Court Date*
Driving, Overtaking & Passing Violations (cont'd):		
MTC 1007	35.00	70.00
MTC 1008	35.00	70.00
Speeding Violations:		
MTC 1101: 1–4 mph over limit	15.00	30.00
MTC 1101: 5–9 mph over limit	35.00	70.00
MTC 1101: 10–19 mph over limit	50.00	100.00
MTC 1101: 20–24 mph over limit	100.00	200.00
MTC 1101(3)	$35.00	$70.00
MTC 1103	15.00	30.00
Parking Violations:		
MTC 1201	20.00	40.00
MTC 1202	20.00	40.00
MTC 1203	20.00	40.00
MTC 1204 except 1204(2)(b) and (e)	20.00	40.00
MTC 1204(2)(b) & (e)	50.00	100.00
MTC 1205	20.00	40.00
MTC 1206	20.00	40.00
MTC 1207	20.00	40.00
MTC 1208(6) or (7)	50.00	100.00
MTC 1210	20.00	40.00
MTC 1211	20.00	40.00
Other Violations:		
MTC 1402	50.00	100.00
MTC 1403	50.00	100.00
MTC 1404	50.00	100.00
MTC 1405	20.00	40.00
MTC 1406	35.00	70.00
MTC 1407	35.00	70.00
MTC 1408	15.00	30.00
MTC 1411	15.00	30.00
Motorcycle Violations:		
MTC 1502	15.00	30.00
MTC 1503	15.00	30.00
MTC 1504	15.00	30.00

(25) Sec. 8-2-60. Centerlane Commercial Loading Zone. (Chapter 8, Article 2, Operating, Standing, Stopping and Parking)

(a) Designation. A Centerlane Commercial Loading Zone is hereby established in the commercial core on Colorado Avenue. The loading zone shall be identified by lines painted in yellow on both sides of the centerline of Colorado Avenue and any other traffic control device deemed necessary.

(b) Purpose. The Centerlane Commercial Loading Zone shall be for commercial vehicles only which display a duly issued permit. Permits shall be issued by the Town Marshal's Office subject to the criteria promulgated by the Town Manager.

(c) It is unlawful for any vehicle to park in the Centerlane Commercial Loading Zone without a valid permit displayed.

(d) It is unlawful for any vehicle to park in the centerlane anywhere other than in the designated, marked Centerlane Commercial Loading Zone.

(e) Towing. Towing. Any vehicle parked in violation of this Section represents an obstruction, hazard or potential obstruction or hazard to public safety and/or limits the normal access to use of public or private property. In addition to all other available remedies, penalties, fines and assessments, the Town Marshal is authorized to tow and impound any vehicle parked in violation of this Section.

(26) Sec. 8-2-90. Penalties. (Chapter 8, Article 2, Operating, Standing, Stopping and Parking)

(a) It is unlawful for any person to violate any provision of this Article.

(b) Schedule. The following schedule sets forth the penalty assessments which may be offered for violations of this Article. In the event the penalty assessment is not paid prior to the court date, the penalty assessment shall double:

Penalty Assessment Schedule		
TMC Section	***If Paid Prior to Court Date***	***If Paid on or After Court Date***
TMC 8-2-10	$15.00	$30.00
TMC 8-2-20	50.00	100.00
TMC 8-2-30	35.00	70.00
TMC 8-2-40	20.00	40.00
TMC 8-2-50	20.00	40.00
TMC 8-2-60	20.00	40.00

(27) Sec. 8-3-70. Penalties. (Chapter 8, Article 3, Abandonment and Impoundment)

Violation of any portion of this Article is a civil matter to be tried before the Municipal Court without right to jury trial. The maximum fine upon a finding of liability for any violation of this Article shall be a fine not to exceed the amount set forth in Paragraph 1-4-10(a)(2) of this Code. No person found liable under this Article shall be punished by imprisonment.

(28) Sec. 10-4-100. Littering. (Chapter 10, Article 4, Public, Private and Personal Property)

(a) A person commits littering who, not being in lawful possession of any premises, deposits, throws or leaves litter thereon, unless the litter is placed in a receptacle installed on the premises for litter, or unless the premises are designated as a lawful dump site.

(b) Whenever litter is discharged from any motor vehicle in violation of this Section, the operator of the motor vehicle shall be presumed to have caused or permitted the litter to have been discharged therefrom.

(c) The term *litter*, as used in this Section, means any rubbish, waste material, refuse, garbage, trash, debris, excrement or other foreign substance, solid or liquid, of every form, size, kind or description.

(d) The court, upon conviction of any person under this Section and the imposition of a fine or prison term, may suspend the sentence on the condition that the convicted person gather and remove all litter found on a specified piece of public or private property.

(29) Sec. 10-6-50. Other penalties. (Chapter 10, Article 6, Discriminatory Practices)

Whenever it appears that the holder of a permit, license, franchise, benefit or advantage issued by the Town is in violation of this Article, the Town, notwithstanding any other action it may take or may have taken under the authority of the provisions of this Article, may, after an appropriate hearing, take such action regarding the temporary or permanent suspension of the violator's Town business license, permit, franchise, benefit or advantage as it considers appropriate based on the facts disclosed to it.

(30) Sec. 10-9-30. Penalties. (Chapter 10, Article 9, Hang Gliding Regulations)

Any person, upon conviction of a violation for any provision of this Article, shall be subject to a maximum penalty as set forth in Paragraph 1-4-10(a)(1) of this Code for each separate offense, and may be enjoined from any further continued violation thereof.

(31) Sec. 11-1-50. Assessment. (Chapter 11, Article 1, Sidewalk Construction and Maintenance)

In case the Town has paid for the construction, renewal or repair of the sidewalk as provided in this Article, then the Town Council shall, at a regular meeting, assess the cost of such construction, renewal or repair to the lot, together with ten percent (10%) penalty thereon to defray the cost of collection. It is the duty of the Town Clerk to certify the assessment to the County Clerk and Recorder, or to the official having custody of the tax list at the time such certification is made, to be placed by him or her upon the tax list for the current year and collected in the manner provided by law; provided however, that no such assessment shall be so certified until notice of such assessment has been published in a newspaper of general circulation published in Town, for a period of not less than one (1) week, giving notice to the owner or agent of the lot to appear before the Town Council at a specified meeting, not less than ten (10) days after such publication, where he or she may be heard as to the justness and correctness of the assessment.

(32) Sec. 11-1-90. Snow and ice removal. (Chapter 11, Article 1, Sidewalk Construction and Maintenance)

(a) Every owner, occupant or agent ("responsible person") of a building, structure, property or lot ("premises") within the Town shall remove from all sidewalks abutting, adjoining or fronting the premises all snow and ice within twelve (12) hours after it accumulates thereon. No person shall fail to fulfill this affirmative obligation. For purposes of determining whether a sidewalk is abutting, adjoining or fronting the premises, any intervening right-of-way shall be excluded. This Section does not apply to ice that accumulates for reasons beyond the control of the responsible person.

(b) In the event the responsible person shall fail to cause snow and ice removal as required by Subsection (a) above, the Town Manager may cause a written notice to be served on the responsible person. The notice shall require the responsible person to complete the snow and/or ice removal within a reasonable time, not to exceed forty-eight (48) hours. If personal service cannot be made on the responsible person, the notice shall be posted in a prominent place at the premises. If the responsible person so notified fails to remove the snow as required by this Section, the Town Manager may cause the snow removal to meet the requirements of Subsection (a) above and charge the costs thereof, plus an additional amount up to twenty-five dollars ($25.00) for administrative costs, to the responsible person.

(c) Any person who violates any provision of this Section shall be subject to a fine not less than one hundred dollars ($100.00) and not to exceed the maximum fine as set forth in Paragraph 1-4-10(a)(2) of this Code. Each such person shall be guilty of a separate violation for each and every day during any portion of which any violation of any provision of this Section is committed, continued or permitted by any such person, and such person shall be punished accordingly.

(d) The remedies contained in Subsections (b) and (c) above are cumulative.

(33) Sec. 13-2-120. Delinquency. (Chapter 13, Article 2, Service Charges)

(a) Water and sewer service charges are due on the thirtieth day from the date the charges are billed, and become delinquent if the charges remain unpaid on the thirty-first day after billing. Billing shall be deemed to have occurred on the date appearing on the bill. Charges shall be deemed to have been paid on the date of actual receipt of payment by the Town.

(b) A penalty of five percent (5%) of the total amount of the delinquent charges shall be imposed on the thirty-first day after billing, and at the commencement of each billing period thereafter until the delinquent charges and any outstanding penalty are paid in full.

(c) The Town shall have an action for the delinquent charges plus penalties, fees and interest against the owner of the water-using or sewer-using unit and the occupant of the water-using or sewer-using unit who has been the actual user of the services. The Town Manager may elect to bring an action against either or both of those parties.

(d) Accounts which are sixty (60) days delinquent shall receive a notice of discontinuance, and water shall be shut off on the date specified in the notice unless the account balance is paid in full on or before the date and time specified. At least ten (10) days shall lapse between issuance of the notice of discontinuance and discontinuation of water service. Water service which has been discontinued for delinquency shall not be reinstated until the account balance has been paid in full plus applicable deposit and service charges.

(e) All unpaid water and/or sewer service charges and other charges and fees under this Chapter shall be a lien on the property of the owner of the water-using and/or sewer-using unit or property. If the ownership of a water-using or sewer-using unit or property should change hands, the

new owner of that unit or property shall be deemed to have had notice of all unpaid water and sewer charges and fees. The lien shall survive any transfer of ownership. It shall be collectable against the property of the new owner. If the amounts due are not paid within thirty (30) days from the due date, the Town Manager may proceed to collect them pursuant to Section 4-1-90 of this Code or in any manner provided by law.

(f) Delinquent water and/or sewer charges may be collected against any owner or user by suit, such action to be in the name of the Town, in any court having jurisdiction thereof, and to be prosecuted as an action at law or by a suit in equity.

(34) Sec. 13-3-20. Failure to meter or tampering with meters. (Chapter 13, Article 3, Unlawful Practices

(a) It is unlawful for any person to share a meter with any other water-using unit or to allow any water-using unit to be unmetered. It is unlawful for any person to tamper or interfere with any water meter or seal, or to arrange any plumbing or piping so that the use of water or sewer service might not be accurately registered by the meter. It is further declared to be unlawful to prevent or interfere with any employee of the Town in his or her access, examination and reading of any meter.

(b) The following nonexclusive remedies may be applied at the election of the Town Manager to ensure that all water service is measured by an individual, accessible and functioning meter:

(1) Higher rates. The owner of any unmetered water-using or sewer-using unit shall pay substantially higher water and sewer service charges.

(2) Abatement. The Town Manager may enter and install, inspect, repair or maintain a meter on the premises of any water-using or sewer-using unit which is not in compliance with the requirements of this Chapter if the owner of the unit fails, within ten (10) days after the date specified in the notice, to comply. The costs of such meter and installation shall be borne by the owner and shall be added to the next regular bill for the unit's water and sewer service charges. Any unpaid costs shall be subject to the delinquency charge, interest, penalty and other collection provisions for service charges contained in Section 4-1-90 of this Code and applicable statutory provisions.

(3) Water shutoff. The Town Manager may disconnect the water service to any water-using unit, without any liability whatsoever, upon failure to meter.

(4) Withholding of permission. No approvals or permits under Chapter 15 of this Code or the Land Use Code shall issue for the alteration of any unmetered water-using or sewer-using unit unless the plans call for bringing the unit into compliance.

(35) Sec. 13-3-110. Failure to install, maintain, test or inspect backflow prevention assembly. (Chapter 13, Article 3, Unlawful Practices)

It is unlawful for the owner of a building, structure or premises to maintain or permit to exist a cross-connection in violation of any of the provisions of this Chapter. Any violation of any of said provisions shall be punishable upon conviction by a penalty as set forth in Paragraph 1-4-10(a)(2) of this Code for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter occurs or continues unabated. In addition, service of water to any premises may be discontinued if unprotected cross-connections exist on the premises or if any defect is found in an installed backflow prevention assembly. Discontinuance of service may be summary, immediate and without written notice whenever in the judgment of the Town Manager such action is necessary to protect the public potable water supply or the distribution system.

(36) Sec. 13-3-**130. Penalty. (Chapter 13, Article 3, Unlawful Practices)**

All remedies for any violations of any of the provisions of this Chapter shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. Any person found to have violated any provision of this Chapter may be punished in accordance with Paragraph 1-4-10(a)(2) of this Code. Any penalties or fees due and unpaid hereunder shall be a lien upon the property and are collectible as provided in Section 4-1-90 of this Code or as may otherwise be provided by law.

(37) Sec. 13-4-30. Violations and penalties. (Chapter 13, Article 4, Cross-Connection Control)

(a) If at any time the Town Manager determines that an immediate health hazard, or the serious threat of an imminent health hazard, exists, he or she immediately may terminate water service to the building, structure or premises without prior notice to the owner or authorized agent of the owner. The owner shall be responsible for all costs associated with such termination of service. The Town Manager shall then notify the owner or authorized agent of the owner of the building, structure or premises of the violation. If the owner fails to correct the violation in the specified time, the Town Manager shall order that the connection be abandoned. The owner shall be responsible for all costs associated with termination of service and the temporary or permanent abandonment of service.

(b) It is unlawful for the owner of a building, structure or premises to maintain or permit to exist a cross-connection in violation of any of the provisions of this Article. A violation of any of the provisions of this Article shall be punishable upon conviction by a penalty as set forth in Paragraph 1-4-10(a)(2) of this Code for each separate offense. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Chapter occurs or continues unabated after the time limit set by the Town Manager in the notice.

(38) Sec. 13-5-50. Violations and penalties. (Chapter 13, Article 5, Water Conservation Code)

(a) Whenever a violation of a mandatory water conservation measure is observed, or whenever probable cause exists to believe a violation of a mandatory water conservation measure has occurred, a written notice shall be posted in a conspicuous place on the property where theviolation occurs or occurred. Said notice shall describe the violation and order that it be abated, corrected or cured immediately or within such time as specified in the notice. If the order is not complied with as specified in the notice, water service to the property upon which the violation occurred or is occurring may be disconnected.

(b) Any person aggrieved by a water service disconnection may seek a hearing before the Town Council by requesting the same within five (5) days of the service disconnect. Such request shall be submitted to the office of the Town Manager in writing.

(c) Any person found to have violated any provision of this Section shall be assessed a penalty of five hundred dollars ($500.00) for the first offense and one thousand dollars ($1,000.00) for any subsequent occurrence within any twelve-month period.

(d) In addition to any other fee or penalty authorized under this Code, a fee of one hundred dollars ($100.00) shall be paid for the reconnection of any water service after disconnection pursuant to Subsection (a) above if a violation is found to have occurred.

(e) The remedies provided for herein are cumulative. In addition, any penalties or fees due and unpaid hereunder shall be a lien upon the property and are collectible as provided in Section 4-1-90 of this Code or as may otherwise be provided by law.

(39) Sec. 15-14-80. Penalties. (Chapter 15, Article 14, Building Numbering)

Any person, upon conviction of a violation of any provisions of this Article, shall be subject to a the maximum penalty as provided for in Paragraph 1-4-10(a)(1) of this Code. The person may also be enjoined from any further or continued violation of this Article. Each day during which violation of this Chapter shall continue shall constitute a separate and distinct offense under this Article.

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

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

Section 7. A public hearing on the ordinance shall be held on the 24th day of June, 2008, in the Town Council Chambers, Rebekah Hall, 113 W. Columbia, Telluride, Colorado.

Section 8. This ordinance shall become effective upon the date of publication of notice of its passage in a newspaper of general circulation within the Town of Telluride.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Telluride, Colorado on the 3rd day of June, 2008.

TOWN OF TELLURIDE	ATTEST
By: (signature)_____	(signature)_____
Stuart Fraser	Mary Jo Schillaci
Mayor	Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Telluride, Colorado this 24th day of June 2008.

TOWN OF TELLURIDE	ATTEST
By: (signature)_____	(signature)_____
Stuart Fraser	Mary Jo Schillaci
Mayor	Town Clerk

APPROVED AS TO FORM:

By: (signature)_____
Kevin J. Geiger, Town Attorney