

# **TOWN OF SEDGWICK, COLORADO**

## **CODE OF ORDINANCES**

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**SEDGWICK, COLORADO  
TABLE OF CONTENTS**

Chapter

**TITLE I: GENERAL PROVISIONS**

- 10. General Provisions
- 11. General Penalty
- 12. Inspections

**TITLE III: ADMINISTRATION**

- 30. Town Policies
- 31. Town Officials

**TITLE V: PUBLIC WORKS**

- 50. Water
- 51. Garbage
- 52. Sewer

**TITLE VII: TRAFFIC CODE**

- 70. Driving Regulations
- 71. Recreational Vehicles
- 72. Parking

**TITLE IX: GENERAL REGULATIONS**

- 90. Animals
- 91. Nuisances
- 92. Streets and Sidewalks

**TITLE XI: BUSINESS REGULATIONS**

- 110. General Provisions
- 111. Business Licensing Regulations
- 112. Marijuana Regulations

**Sedgwick - Table of Contents**

**TITLE XIII: GENERAL OFFENSES**

- 130. General Offenses

**TITLE XV: LAND USAGE**

- 150. Flood Damage Prevention
- 151. Building Regulations
- 152. Building Code
- 153. Zoning
- 154. Shipping Containers

**TABLE OF SPECIAL ORDINANCES**

Table

- I. Agreements
- II. Franchises
- III. Property Transfers
- IV. Construction Regulations
- V. Zoning

**PARALLEL REFERENCES**

- References to Colorado Revised Statutes
- References to Ordinances

**INDEX**

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**

**11. GENERAL PENALTY**

**12. INSPECTIONS**



## CHAPTER 10: GENERAL PROVISIONS

### Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Construction of code
- 10.05 Rules of interpretation; definitions
- 10.06 Severability
- 10.07 Reference to other sections
- 10.08 Reference to offices; name designations
- 10.09 Errors and omissions
- 10.10 Reasonable time
- 10.11 Code supersedes prior ordinances
- 10.12 Adoption of codes by reference
- 10.13 Repeal of ordinances not contained in code
- 10.14 Matters not affected by repeal
- 10.15 Section histories; statutory references
- 10.16 Ordinances saved from repeal
- 10.17 Changes in previously adopted ordinances
- 10.18 Town seal
- 10.19 Copy of code on file
- 10.20 Sale of code books

### § 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the Town, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “Sedgwick Town Code”, for which designation “code of ordinances”, “codified ordinances”, or “code” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

**§ 10.02 INTERPRETATION.**

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of State law.

**§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

**§ 10.04 CONSTRUCTION OF CODE.**

(A) This code is a codification of previously existing laws, amendments thereto, and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters, or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application, or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.

**§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.**

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary, and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOARD.** The Board of Trustees.

**CLERK.** The Clerk of the Town of Sedgwick.

**COUNTY.** Sedgwick County, Colorado.

**HIGHWAY.** Includes bridges, roads, and streets, unless otherwise expressly provided.

**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.** One calendar month.

**MUST.** Is mandatory.

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

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

**PERSON.** A natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust, limited liability company or other organization, or the manager, lessee, agent, servant, officer, member or employee of any of them.

**PRECEDING and FOLLOWING.** When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

**SHALL.** Is mandatory.

**SIDEWALK.** That portion of a street between the curblineline and the adjacent property line, intended for the use of pedestrians.

**STATE.** The State of Colorado.

**STREET.** Includes any public way, highway, street, avenue, boulevard, parkway, lane, alley, court, place, square, curb or other public thoroughfare in the Town which has been or may hereafter be dedicated and open to public use, or such other public property so designated by any state law.

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

**TREASURER.** The Treasurer of the Town of Sedgwick.

**WRITTEN and IN WRITING.** Include printing, lithographing, or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

**YEAR.** One calendar year, unless otherwise expressly provided.

#### **§ 10.06 SEVERABILITY.**

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

(D) The repeal of a section or amendment stating that the provisions of a chapter, subchapter, or section are severable as provided in division (B) above does not affect the operation of division (B) above with respect to that chapter, subchapter, or section.

**§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

**§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.**

(A) *Reference to offices.* Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations.* Whenever any ordinance or resolution of the Board refers to any board, bureau, commission, division, department, officer, agency, authority, or instrumentality of any government, and that name designation is incorrectly stated; on the effective date of that ordinance or following the effective date, the rights, powers, duties, or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority, or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers, and rights were transferred.

**§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**§ 10.10 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, ***REASONABLE TIME OR NOTICE*** shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) Unless otherwise provided by State statute, the time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday, or a State holiday, it shall be excluded.

**§ 10.11 CODE SUPERSEDES PRIOR ORDINANCES.**

This code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances passed by the Board of Trustees.

**§ 10.12 ADOPTION OF CODES BY REFERENCE.**

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

**§ 10.13 REPEAL OF ORDINANCES NOT CONTAINED IN CODE.**

All existing ordinances and portions of ordinances of a general and permanent nature which are inconsistent with any ordinance included in the adoption of this code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this code, except as hereinafter provided.

**§ 10.14 MATTERS NOT AFFECTED BY REPEAL.**

The repeal of ordinances and parts of ordinances of a permanent and general nature by § 10.13 of this Code shall not affect any offense committed or act done, any penalty or forfeiture incurred or any

contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.

**§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:  
C.R.S. § 35-5.5-101

(2) If a statutory cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information.

**§ 10.16 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:

- (A) Creating, opening, dedicating, vacating or closing specific streets, alleys and other public ways;
- (B) Naming or changing the names of specific streets and other public ways;
- (C) Establishing the grades of specific streets and other public ways;
- (D) Establishing the grades or lines of specific sidewalks;
- (E) Authorizing or relating to specific issuances of general obligation bonds;
- (F) Creating specific sewer and paving districts and other local improvement districts;
- (G) Authorizing the issuance of specific local improvement district bonds;

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

- (I) Annexing territory to or excluding territory from the Town;

- (J) Dedicating or accepting any specific plat or subdivision;
- (K) Calling or providing for a specific election;
- (L) Authorizing specific contracts for purchase of beneficial use of water by the Town;
- (M) Approving or authorizing specific contracts with the State, with other governmental bodies or with others;
- (N) Authorizing a specific lease, sale or purchase of property;
- (O) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers;
- (P) Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys;
- (Q) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company;
- (R) Appropriating money;
- (S) Levying a temporary tax or fixing a temporary tax rate;
- (T) Relating to salaries; and
- (U) Amending the official zoning map.

#### **§ 10.17 CHANGES IN PREVIOUSLY ADOPTED ORDINANCES.**

In compiling and preparing the ordinances of the Town for adoption and revision as part of this Code, certain grammatical changes and other changes were made in one or more of said ordinances. It is the intention of the Board of Trustees that all such changes be adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such to make the Code current. (Ord. 01-2023, passed 3-13-2023)

#### **§ 10.18 TOWN SEAL.**

A seal, the impression of which is as follows: in the center the word “SEAL” and around the outer edge, the words “Town of Sedgwick, Colorado” shall be and is hereby declared to be the seal of the Town.

(Ord. 1, passed 5-18-1918)

**§ 10.19 COPY OF CODE ON FILE.**

At least one copy of this code so certified and sealed most recently shall be kept in the office of the Town Clerk at all times, and such code may be inspected by any interested person at any time during regular office hours, but may not be removed from the Town Clerk's office except upon proper order of a court of law.

(Ord. 01-2023, passed 3-13-2023)

**§ 10.20 SALE OF CODE BOOKS.**

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



## CHAPTER 11: GENERAL PENALTY

### Section

- 11.01 Violations
- 11.02 General penalty for violation
- 11.03 Application of penalty to juveniles
- 11.04 Penalty for violations of ordinances adopted after adoption of code
- 11.05 Interpretation of unlawful acts

### § 11.01 VIOLATIONS.

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

### § 11.02 GENERAL PENALTY FOR VIOLATION.

(A) Unless otherwise provided in this code or by ordinance, whenever in this code or any other ordinance, resolution or rule of the Town, the doing of any act is required, prohibited or declared to be unlawful or an offense or a misdemeanor, and no definite fine or specific penalty is provided for a violation thereof, any person who shall be convicted of or plead guilty or no contest to a violation of any such provision of this code or other ordinance, resolution or rule of the Town, whether now in existence or hereinafter enacted, shall be punished by a fine of not more than \$2,650, as shall be adjusted for inflation annually in accordance with C.R.S. § 13-10-113 or by imprisonment not exceeding 364 days or by both such fine and imprisonment, except as hereinafter provided in § 11.04. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Every day such violation continues shall constitute a separate offense.

(B) Whenever in this code or any ordinance of the Town a minimum but not a maximum fine or penalty is imposed, the court may, in its discretion, fine the offender any sum exceeding the minimum fine or penalty so imposed, but not exceeding the maximum fine set forth in division (A) above.

(C) The suspension or revocation of any license, permit or other privilege conferred by the Town shall not be regarded as a penalty for the purposes of this code.

(D) All penalties in codes adopted by reference in this code are hereby superceded by this section. (Ord. 01-2023, passed 3-13-2023)

**§ 11.03 APPLICATION OF PENALTIES TO JUVENILES.**

Every person who, at the time of commission of the offense, was at least ten but not yet 18 years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this code, shall be punished by a fine of not more than the maximum fine set forth in § 11.02 above per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this code. (Ord. 01-2023, passed 3-13-2023)

**§ 11.04 PENALTY FOR VIOLATIONS OF ORDINANCES ADOPTED AFTER ADOPTION OF CODE.**

Any person who violates any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this code, either before or after it has been inserted in this code by a supplement, shall, upon conviction thereof, be punishable as provided by § 11.01 unless another penalty is specifically provided for the violation.

**§ 11.05 INTERPRETATION OF UNLAWFUL ACTS.**

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

## CHAPTER 12: INSPECTIONS

### Section

- 12.01 Entry
- 12.02 Authority to enter premises under emergency

#### **§ 12.01 ENTRY.**

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

#### **§ 12.02 AUTHORITY TO ENTER PREMISES UNDER EMERGENCY.**

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



**TITLE III: ADMINISTRATION**

Chapter

**30. TOWN POLICIES**

**31. TOWN OFFICIALS**



## CHAPTER 30: TOWN POLICIES

### Section

#### *General Provisions*

- 30.01 Smoking near Town buildings
- 30.02 Ordinance procedure
- 30.03 Municipal Court

#### *Elections*

- 30.15 Officer terms
- 30.16 Write-in votes
- 30.17 Notice of cancellation of elections
- 30.18 Compliance with State law
- 30.19 State term limits are inapplicable

#### *Finances*

- 30.30 Fiscal year
- 30.31 Collection of delinquent charges
- 30.32 Sanitation enterprise
- 30.33 Sales tax

### **GENERAL PROVISIONS**

#### **§ 30.01 SMOKING NEAR TOWN BUILDINGS.**

The Town will allow smoking within the 15-foot radius of all buildings in the Town as allowed by C.R.S. § 25-14-207, as amended from time to time.  
(Ord. 08-2006, passed 8-7-2006)

**§ 30.02 ORDINANCE PROCEDURE.**

(A) All ordinances adopted and published by “title only” shall be posted at Town Hall and on the Town’s website.

(B) The aforementioned item(s) in division (A) above shall be posted by the same day as the item(s) is/are to be published by “title only” in the newspaper of record for the Town (at the time of publication of the ordinance codified herein, the newspaper of record for the Town is the Julesburg Advocate, 108 Cedar Street, Julesburg, Colorado). The item(s) posted shall remain posted for not less than 30 days.

(C) In the event that the item(s) posted, other than at the Town Hall, are removed and or destroyed by any person other than the Town Clerk, or are in any way obstructed from public view, the Town shall not be held liable and shall be considered in fulfillment of it’s fiduciary responsibility.

(D) Any person shall be able to read and inspect the item(s) aforementioned posted and published by “title only” in its entirety at the Town Hall anytime during normal Town Hall business hours. A copy of such item(s) shall be supplied by the Town Clerk upon request and the current applicable fee being paid for administrative expenses as allowed by law.

(Ord. 01-2006, passed 1-9-2006)

**§ 30.03 MUNICIPAL COURT.**

(A) A record of all proceedings before the Municipal Court shall be kept by electronic recording.

(B) The person appointed to serve as the Judge of the Municipal Court shall be an attorney licensed to practice law in the State.

(C) The Municipal Court shall be a qualified court of record as provided in C.R.S. § 13-10-102(3).  
(Ord. 10-2006, passed 9-11-2006)

***ELECTIONS*****§ 30.15 OFFICER TERMS.**

(A) The following elected officials shall be elected in the following manner, in compliance with applicable State statute, and shall become effective for the April 2008 election unless otherwise amended by a vote of the registered electorate of the Town.

<i>Office</i>	<i>Term</i>
Three Trustees	Four years
Next regular municipal election (April 2010)	
One Mayor	Four years
Three Trustees	Four years

(B) All such lengths of terms of office shall be in effect, as is currently being followed under the ordinance to be repealed and in full compliance or applicable State statute.  
 (Ord. 02-2006, passed 1-25-2006)

**§ 30.16 WRITE-IN VOTES.**

(A) No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the Town Clerk, as required in applicable State statute, by the person whose name is to be written on the municipal election ballot, within the time limit required under applicable State statute. Unless an affidavit of intent as write-in has been received and certified by the Town Clerk in the required time limit, by law, no write-in space for any office up for election shall appear on the official ballot as presented to the registered voters on election day.

(B) If the only matter for election of the registered voters of the Town is that of persons being elected to office, and no more persons than positions of office open for election have turned in their legal petitions for election to such office, and said petitions have been received and certified by the Town Clerk as of the deadline required by applicable State statute, and no affidavit of intent for write-in candidate has been received and certified by the Town Clerk as of the deadline required by applicable State statute, a special meeting shall be convened, at the request of the Town Clerk and ordered by the Mayor, for the purpose of declaring a resolution of cancellation of the regular municipal election for that year. Subsequent to the election being declared canceled by resolution of the Town Board, all candidates nominated by petition to be placed on the ballot for said election shall be considered elected to that position for that term of said office. All candidates shall be deemed elected and must be present at the next regular meeting of the Town Board of Trustees to be sworn in.  
 (Ord. 02-2006, passed 1-25-2006)

**§ 30.17 NOTICE OF CANCELLATION OF ELECTIONS.**

Notice of cancellation of any municipal election will be made public through publication and/or public posting of said notice of cancellation of election by the Town Clerk in compliance with applicable State statute. Such cancellation notices shall be placed in at least three conspicuous locations within the

Town limits and one notice shall be placed at the polling place where the cancelled election would have been held. Publication of said cancellation of election shall be made as of the next publication date, following such cancellation, in the newspaper of record of the Town.

(Ord. 02-2006, passed 1-25-2006)

#### **§ 30.18 COMPLIANCE WITH STATE LAW.**

The Town Clerk is, and shall remain, in compliance with the Colorado Municipal Election Code of 1965, as amended from time to time, the Head Election Official for all municipal elections held within the Town, and any and all determinations made by the Town Clerk, in regards to any situation that may arise during any election cycle, with appropriate guidance from the proper officials of the State, shall be binding and followed as said official determines and sets forth. Upon request, the Town Clerk may make the reason(s) for any determination made known to the Town Board of Trustees during a meeting during which an official record of proceedings is kept, this being for future reference.

(Ord. 02-2006, passed 1-25-2006)

#### **§ 30.19 STATE TERM LIMITS ARE INAPPLICABLE.**

All sitting and all future elected officials to the Town shall not be subject to the term limitations imposed by Article XVIII of the State's constitution.

(Ord. 2-2004, passed 2-2-2004)

***Editor's note:***

*The voters of the Town on April 6, 2004, voted to eliminate the term limitations set forth in Article XVIII of the State's constitution as it provides.*

### ***FINANCES***

#### **§ 30.30 FISCAL YEAR.**

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

(Ord. 14, passed 3-3-1919)

#### **§ 30.31 COLLECTION OF DELINQUENT CHARGES.**

(A) The Town Clerk shall prepare and certify a list of any and all delinquent charges, assessments, or taxes as authorized by the Town through ordinance or resolution to the County Treasurer as authorized by C.R.S. § 31-20-105. The list shall contain charges against the owner of the property referenced respective of any lots or parcels of land, and assigned address where the assessment is in

effect and shall note any perpetual monthly charges, including late fees, against said lots or parcels until paid. The list is to be updated by the Town Clerk as requested by the County Treasurer.

(B) Pursuant to C.R.S. § 31-20-106, the Board of Trustees hereby authorizes the County Treasurer to affect collection of said delinquent charges, assessments, or taxes as is applicable under referenced C.R.S. § 31-20-105, and such delinquent charges shall be collected in the same manner as though they were part of the taxes together with a 10% penalty thereon to defray the costs of collection, up to and including sale of effected property(ies) at the next general tax sale for which delinquencies have been certified to the County Treasurer by the Town Clerk.

(C) This section shall include any and all fees lawfully assessed by the Town including, but not limited to, any assessments by action of and through enterprises which exist as authorized by the Board of Trustees and are in full compliance with Amendment 20, Article X of the constitution of the State, (otherwise referred to as the T.A.B.O.R. amendment) irrespective to such enterprise being formally established or existing by operation of law.

(Ord. 01-2009, passed 7-6-2009)

### **§ 30.32 SANITATION ENTERPRISE.**

(A) The Town's Sanitation Department shall commence on January 1, 2009 to provide sanitation services to the community of the Town and the Department shall operate as an "enterprise fund" within the meaning of Article X, § 20 of the constitution of the State and operate according to the accepted principles and procedures established by the Governmental Accounting Standards Board for an enterprise fund operation and shall be authorized with the approval of the Board of Trustees to issue its own revenue bonds and receive under 10% of its annual revenue in grants from all State and local governments combined.

(B) The sanitation enterprise shall be under the authority of the Board of Trustees, which shall have included in its control over the enterprise the authority to approve rates and fees charged for services, operational salaries, and authority to approve the issuance of revenue bonds as well as approval of the annual budget for the enterprise.

(Ord. 02-2008, passed 11-3-2008)

### **§ 30.33 SALES TAX.**

(A) *Purpose.* The purpose of this section is to impose a sales tax upon the sale at retail of tangible personal property and the furnishing of certain services in the Town, pursuant to the authority granted to incorporated Towns of the State by C.R.S. Title 29, Article 2, as amended. This section shall be so

construed and interpreted as to effectuate the general purpose of making it uniform with the sales tax of the State, levied by C.R.S. Title 39, Article 26, as amended.

(B) *Definitions.* For the purpose of this section, the definition of words herein contained shall be as said words are defined in C.R.S. § 39-26-102, as amended, except the definition of food in C.R.S. § 39-26-102(4.5), and said definitions are incorporated herein by this reference.

(C) *Property and services taxed.*

(1) There is hereby levied and there shall be collected and paid a sales tax in the amount as in this section provided, upon the sale at retail of tangible personal property and the furnishing of certain services, as provided in the Emergency Retail Sales Tax Act of 1935 set forth in C.R.S. Title 39, Article 26, as amended, which provisions are incorporated herein by this reference, and upon the sale at retail of tangible personal property, on sales of food and purchases of machinery or machine tools, and the furnishing of services on sales and purchases of electricity, coal, gas, fuel oil, and coke for domestic and commercial consumption.

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

(3) The gross receipts from sales shall include delivery charges, when such charges are subject to the State sales and use tax imposed by C.R.S. Title 39, Article 26, as amended, regardless of the place to which delivery is made.

(4) Notwithstanding any other provision of this section, the value of construction and building materials on which a use tax has previously been collected by an incorporated Town, city, or county shall be exempt from the Town, city, or county sales tax if the materials are delivered by the retailer or his or her agent to a site within the limits of such Town, city, or county.

(D) *Exemptions.*

(1) There shall be exempt from taxation under the provisions of this section all of the tangible personal property and services which are exempt under the provisions of the Emergency Retail Sales Tax Act of 1935, as set forth in C.R.S. Title 39, Article 26, as amended, which exemptions are incorporated herein by this reference, except the exemption for sales of food specified in C.R.S. 39-26-707(1)(e).

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

(a) The purchaser is a non-resident of, or has its principal place of business outside of, the Town; and

(b) Such tangible personal property is registered or required to be registered outside the limits of the Town under the laws of the State.

(E) *Amount of tax and schedule.*

(1) These is hereby imposed upon all sales of tangible personal property and the furnishing of certain services, as specified in division (C) above, a 1% sales tax upon the sale at retail or tangible personal property and the furnishing of certain services as provided herein.

(2) The imposition of the tax on the sale at retail of tangible personal property and the furnishing of certain services subject to this tax shall be in accordance with schedules set forth in the rules and regulations of the State's Department of Revenue.

(F) *General provisions.*

(1) For the purposes of this section, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the limits of the Town or to a common carrier for delivery to a destination outside the limits of the Town.

(2) In the event a retailer has no permanent place of business in the Town, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by Colorado Revised Statutes, as amended, and by rules and regulations promulgated by the State's Department of Revenue.

(G) *Collection, administration, and enforcement.* The collection, administration, and enforcement of the sales tax imposed by this section shall be performed by the Executive Director of the State's Department of Revenue in the same manner as the collection, administration, and enforcement of the State sales tax. Accordingly, the provisions of C.R.S. Title 39, Article 26, *Sales and Use Tax*, Title 39, Article 21, *Procedure and Administration*, and Title 29, Article 2, *County and Municipal Sales or Use Tax*, as amended, and all rules and regulations promulgated by the Executive Director of the Department of Revenue pertaining to such collection, administration, and enforcement, are incorporated herein by this reference.

(Ord. 85-1, passed 3-4-1985; Ord. 01-2023, passed 3-13-2023)



## CHAPTER 31: TOWN OFFICIALS

### Section

#### *Town Officers*

- 31.01 Oath of office
- 31.02 Appointive offices
- 31.03 Powers and duties
- 31.04 Mayor Pro Tem
- 31.05 Acting Mayor
- 31.06 Town Treasurer duties
- 31.07 Town Clerk duties
- 31.08 Town Attorney
- 31.09 Deputy Town Clerk

#### *Board of Trustees*

- 31.45 Regular meetings
- 31.46 Special meetings
- 31.47 Order of business for meetings
- 31.48 Structure of government
- 31.49 Board of Trustees

#### *Board of Trustees Roles and Responsibilities*

- 31.75 Definitions
- 31.76 Responsibilities of the Mayor
- 31.77 Responsibilities of the Trustees
- 31.78 Responsibilities of all elected officials
- 31.79 Relationship of the Board of Trustees to Town staff
- 31.80 Exceptions to this subchapter

31.99 Penalty

### ***TOWN OFFICERS***

#### **§ 31.01 OATH OF OFFICE.**

Each and every officer of the Town shall, before entering upon the discharge of his or her duties, take and subscribe to an oath or affirmation that he or she will support the Constitution of the United States, and constitution and laws of the State, and will well and faithfully perform the duties of his or her officer to the best of his or her skill and ability.

(Ord. 11, passed 6-3-1918)

#### **§ 31.02 APPOINTIVE OFFICES.**

The Town's Board of Trustees shall appoint by a majority vote of all the members thereof at the first regular meeting of said Board, after the annual municipal election or as soon thereafter as may be, the following officers: Town Clerk, Town Treasurer, Town Attorney, and such other officers as shall be necessary to properly care for and manage the affairs of the Town, all of which appointment of officers shall hold their respective offices during the pleasure of the Board of Trustees; provided that no appointment of any officer shall continue beyond 30 days after the qualification of the members of the succeeding Board of Trustees.

(Ord. 11, passed 6-3-1918)

#### **§ 31.03 POWERS AND DUTIES.**

Officers of the Town shall have such powers and perform such duties as now or hereafter may be prescribed by the laws of this State and the ordinances of this Town and shall further perform any additional duty required by the Board of Trustees, and shall be subject to the control and orders of the Mayor and the Board of Trustees, and all appointive officers may be removed by a majority vote of the Board in accordance with applicable State statute.

(Ord. 11, passed 6-3-1918)

#### **§ 31.04 MAYOR PRO TEM.**

The Board of Trustees shall, at its first meeting, choose one of its own Board as Mayor Pro Tem, who in the absence of the Mayor from any meeting of said Board or during the Mayor's absence from Town or his or her inability to act, shall perform his or her duties.

(Ord. 11, passed 6-3-1918)

**§ 31.05 ACTING MAYOR.**

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

**§ 31.06 TOWN TREASURER DUTIES.**

The Town Treasurer shall perform the following duties:

(A) The Town Treasurer shall receive all monies belonging to the Town and give receipts therefor.

(B) The Town Treasurer shall keep his or her books and accounts in such manner as may be prescribed by the Board of Trustees.

(C) The Town Treasurer shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto.

(D) Annually, the Town Treasurer shall make out a full and detailed account of all receipts and expenditures of the Town and shall cause such account to be published or posted in accordance with the requirements of C.R.S § 31-20-304.

(E) The Town Treasurer shall prepare the Town's annual budget and oversee the Town's annual audit.

(F) The Town Treasurer shall perform all other duties, keep all records and make all reports that are required by other provisions of this code or by State law.

**§ 31.07 TOWN CLERK DUTIES.**

The Town Clerk shall perform the following duties:

(A) Be the Town Clerk of the Board of Trustees, attend all meetings of the Board of Trustees and keep a permanent record of its proceedings;

(B) Be the custodian of all of the Town's records; such records shall be open at all reasonable times for inspection by electors of the Town;

(C) Certify by his or her signature all ordinances and resolutions enacted or passed by the Board of Trustees;

(D) Provide and maintain in his or her office a supply of forms for all petitions required to be filed for any purpose provided by the Board of Trustees;

(E) Be custodian of all bonds of all officers or employees of the Town;

(F) Be the designated official of all municipal elections;

(G) Be the designated official for all municipal liquor licensing;

(H) Perform all the duties of the Municipal Court Clerk;

(I) Perform such other duties as may be prescribed for him or her by law or by the Board of Trustees; and

(J) Additional job duties are set forth in the Town Clerk's job description.  
(Ord. 01-2023, passed 3-13-2023)

#### **§ 31.08 TOWN ATTORNEY.**

(A) The Town Attorney shall be the general legal advisor of the Board of Trustees and the Town officers in all matters pertaining to Town business. He or she shall appear for the Town in all actions, suits, or proceedings to which the Town may be a party and prosecute or defend as the occasion demands. He or she is authorized to make all necessary affidavits, execute all bonds and other instruments in writing necessary to the proper conduct of any suit or proceedings to which the Town is a party, and to take and prosecute appeals in all cases in which the interest of the Town demands such action. He or she shall draft all ordinances, contracts, and other instruments necessary to the conduct of the regular Town business. He or she shall attend all such meetings of the Board of Trustees or its committees as it may direct.

(B) The duties of the Town Attorney shall include representing the legal interests of the Town and advising the Mayor and Board of Trustees of legal matters affecting the Town and such other matters as directed by the Mayor and Board of Trustees.  
(Ord. 11, passed 6-3-1918; Ord. 02-2009, passed 8-3-2009)

#### **§ 31.09 DEPUTY TOWN CLERK.**

The Board of Trustees, after each biennial election in accordance with State statute, may appoint some qualified person as Deputy Town Clerk who, in the absence of the Town Clerk or the Town Clerk's inability to act, shall perform the duties of the Town Clerk.

***BOARD OF TRUSTEES*****§ 31.45 REGULAR MEETINGS.**

The Board of Trustees shall hold regular meetings on the second Monday of each and every month at 6:00 p.m.; provided, however, that when the day fixed for any regular meeting of the Board of Trustees falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour at the next succeeding Monday, not a holiday. All regular meetings of the Board of Trustees will be held in the Sedgwick Town Hall unless the Board of Trustees designates a different place for such meeting.

(Ord. 2, passed 5-6-1918)

**§ 31.46 SPECIAL MEETINGS.**

Special meetings of the Board of Trustees may be held upon call of the Mayor, or of three members of the Board of Trustees. Notice of the meeting shall be posted as required for regular meetings and shall be provided to each Board member by telephone, text message, email, personal service or by leaving a copy at the member's usual place of residence at least 24 hours prior to the time set for said meeting. The notice shall state the objects of said special meetings and the business to be transacted.

(Ord. 2, passed 5-6-1918; Ord. 01-2023, passed 3-13-2023)

**§ 31.47 ORDER OF BUSINESS FOR MEETINGS.**

At the hour appointed for the meeting, the members shall be called to order by the presiding officer. The Clerk shall then call the roll, note the absentees and determine whether a quorum is present, and, if there is a quorum, the Board shall proceed to business in the manner set forth in the agenda approved by the Board. The order of business may be changed or suspended during any meeting by a majority vote of the members present.

(Ord. 2, passed 5-6-1918)

**§ 31.48 STRUCTURE OF GOVERNMENT.**

The corporate authority of the Town is by State law vested in a Board of Trustees, consisting of one Mayor and six Trustees, who shall be registered electors residing within the limits of the Town. Members of the Board of Trustees are elected for four-year terms. The Board of Trustees is given the power to appoint such other officers as it may deem necessary for the good government of the Town, prescribe their duties and fix their compensation.

**§ 31.49 BOARD OF TRUSTEES.**

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

***ROLES AND RESPONSIBILITIES OF THE BOARD OF TRUSTEES*****§ 31.75 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ELECTED OFFICIAL.*** The Mayor and each Trustee of the Town.

***QUASI-JUDICIAL MATTER.*** Any matter in which a person's individual rights are decided by the application of the pertinent law to the facts presented at a hearing before the Board of Trustees, including but not limited to:

(1) An action affecting an individual property, such as a rezoning, subdivision, site development plan, planned unit development or special use permit; or

(2) An action to approve, suspend or revoke any Town license or permit.  
(Ord. 05-2020, passed 5-11-2020)

**§ 31.76 RESPONSIBILITIES OF THE MAYOR.**

(A) The Mayor shall be responsible for the general oversight and management of Town employees, including making decisions about hiring, discipline and termination of employment. Notwithstanding the foregoing, the Board of Trustees shall be responsible for appointing and removing the Town Clerk, Town Treasurer, Town Attorney and Town Marshal in accordance with State law and the ordinances of the Town.

(B) The Mayor is authorized to make day-to-day decisions in the best interests of the Town.

(C) The Mayor shall preside over meetings of the Board of Trustees.

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

(E) The Mayor shall sign ordinances, resolutions, contracts and other legal instruments as authorized by State statute, Town ordinance, resolution or motion.

(F) The Mayor shall serve as the liaison between the Trustees and Town staff.  
(Ord. 05-2020, passed 5-11-2020)

### **§ 31.77 RESPONSIBILITIES OF THE TRUSTEES.**

(A) The Trustees shall exercise their responsibilities under the statutes, ordinances, and resolutions collectively rather than individually, except as otherwise specifically permitted by Town ordinance, resolution or motion.

(B) The Trustees shall deal with Town staff only through the Mayor.  
(Ord. 05-2020, passed 5-11-2020)

### **§ 31.78 RESPONSIBILITIES OF ALL ELECTED OFFICIALS.**

(A) Individual elected officials shall not make promises or commitments that bind or appear to bind the Town, shall not make threats involving the use of Town powers, and shall not give any assurances concerning pending or future action by the Town.

(B) With regard to any pending quasi-judicial matter:

(1) Individual elected officials shall not initiate contact with any person whose interests may be affected by the decision in such matter.

(2) Individual elected officials shall request that any person who initiates contact with the elected official on such a matter voice any concerns or opinions only at a public hearing called for the purpose of hearing such matter.

(3) Individual elected officials shall make decisions concerning such matter solely on the basis of the evidence and testimony given at the hearing on the matter.

(C) Individual elected officials shall not reveal any confidences learned in executive session or otherwise gained by virtue of the elected official's position with the Town.

(D) Individual elected officials shall not participate in any matter in which the elected official has a conflict of interest and, in such a circumstance, refrain from influencing or attempting to influence any other elected official.

(E) Individual elected officials shall not use for personal or private purposes any information which is not generally known to the public and which is gained by virtue of the elected official's position with the Town, and shall not otherwise act to benefit one's own or another person's personal or private interests by virtue of the elected official's position with the Town.

(F) Individual elected officials shall not act in any Town matter in a malicious, vengeful or retaliatory manner, or in a manner influenced by other improper motivations.  
(Ord. 05-2020, passed 5-11-2020)

**§ 31.79 RELATIONSHIP OF BOARD OF TRUSTEES TO TOWN STAFF.**

(A) The Trustees shall deal with Town staff solely through the Mayor, shall not give orders to or reprimand any employee of the Town, shall not dictate the appointment or removal of any person from Town employment, and shall not interfere with the duties of any Town employee.

(B) Requests by Trustees for information from or action by Town staff shall generally be made at a public meeting and shall require the approval of a majority of the Board present. For items requiring immediate attention, such request shall be made in writing to Town staff and shall require the approval of the Mayor.  
(Ord. 05-2020, passed 5-11-2020)

**§ 31.80 EXCEPTIONS TO THIS SUBCHAPTER.**

(A) Nothing in this subchapter is intended to preclude or prohibit any citizen from exercising his or her right to make contact with any elected official.

(B) Nothing in this subchapter is intended to preclude or prohibit any elected official from participating in any Town Board committee.

(C) Nothing in this subchapter is intended to preclude or prohibit any elected official from attending the meetings of any other governmental entity and, if authorized by the Town Board, representing the concerns and viewpoints of the Town.

(D) Nothing in this subchapter is intended to preclude or prohibit any elected official from participating in other organizations as approved by the Town Board, and representing the Town's interests thereon, but such official shall keep the Town Board apprised of the activities of such organizations and shall follow the general policy directions established by the Town Board in representing the Town's interests.

(E) Nothing in this subchapter is intended to preclude or prohibit any elected official from exercising his or her right to express his or her own individual opinion or viewpoint on any matter.  
(Ord. 05-2020, passed 5-11-2020)

**§ 31.99 PENALTY.**

(A) Any person convicted of violating this chapter may be punished as set forth in § 11.02 of this code.

(B) (1) If a majority of the Board of Trustees determines that an elected official has violated §§ 31.75 through 31.80, the Board of Trustees may impose one or more of the following sanctions after giving the elected official an opportunity to address the Board of Trustees in a public meeting:

(a) Issue a verbal or written public warning;

(b) Issue a verbal or written public reprimand or censure; or

(c) Require the elected official to attend remedial education or training given by an organization such as CIRSA or the Colorado Municipal League regarding the issues that gave rise to the violation.

(2) Repeated or egregious violations of §§ 31.76 through 31.80 may constitute grounds for removal of an elected official in which case the statutory process for removal as set forth in C.R.S. § 31-4-307, as amended from time to time, shall apply. (Ord. 4, passed 5-6-1918; Ord. 26, passed 1-9-1922; Ord. 05-2020, passed 5-11-2020; Ord. 01-2023, passed 3-13-2023)

## **TITLE V: PUBLIC WORKS**

Chapter

**50. WATER**

**51. GARBAGE**

**52. SEWER**



## CHAPTER 50: WATER

### Section

#### *Water Department*

- 50.01 Department established
- 50.02 Superintendent
- 50.03 Fire hydrants
- 50.04 Damage to property
- 50.05 Application for connection
- 50.06 Connection specifications
- 50.07 Deposits
- 50.08 Monthly water service surcharge
- 50.09 Authority to set water rates
- 50.10 Financial responsibility
- 50.11 Interruption of services; no damages
- 50.12 Water use during emergencies
- 50.13 No damages for failure to supply
- 50.14 Water service restrictions
- 50.15 Waste of water prohibited
- 50.16 Unlawful connection; tampering
- 50.17 Right of inspection

#### *Backflow Prevention and Cross-Connection Control Program*

- 50.25 Purpose
- 50.26 Authority
- 50.27 Application
- 50.28 Definitions
- 50.29 Requirements
- 50.30 Inspection, testing, and repair
- 50.31 Reporting and recordkeeping
- 50.32 Right of entry
- 50.33 Compliance

***WATER DEPARTMENT*****§ 50.01 DEPARTMENT ESTABLISHED.**

It is deemed necessary to create a Waterworks Department to provide for the operation, maintenance, and regulation of the waterworks system of the Town. Said Department shall be in charge of a Superintendent of Water who shall be appointed by the Board of Trustees and whose duty it shall be to take charge of all matters relating to the operation, maintenance, and regulation of the Town waterworks system, as provided in this subchapter.

(Ord. 28, passed 7-3-1922)

**§ 50.02 SUPERINTENDENT.**

The Superintendent of Water shall, under the direction of the Board of Trustees, have charge of all water mains, taps, service pipes in streets, fire hydrants, and all connections with water mains and all machinery and equipment of said waterworks, and shall carefully maintain and operate the same as the Board of Trustees shall direct. He or she shall have direction of the laying of all water mains and putting in of all taps and service pipes or other connections with the water mains, and regulation of water supply to all fire hydrants and to all users of water. He or she shall report to the Board of Trustees monthly or more often if required, his or her doings as Superintendent of Water, the condition of the waterworks, and such other suggestions as the nature of the service may require.

(Ord. 28, passed 7-3-1922)

**§ 50.03 FIRE HYDRANTS.**

It shall be unlawful for any person, absent the prior authorization of the Water Superintendent or his or her designee, to connect to any Town hydrant.

(Ord. 28, passed 7-3-1922)

**§ 50.04 DAMAGE TO PROPERTY.**

It shall be unlawful for any person to injure or in anyway damage any property or appliances constituting or being a part of said waterworks, or any fences, boxes, covers, or buildings constructed and used to protect said waterworks or any part thereof. It shall be unlawful for any person except the Superintendent of Water or those employed by him or her or the Board of Trustees to meddle or interfere with any pipe, valve, meter, or appliance used to regulate or measure the flow of water in said waterworks or any part thereof.

(Ord. 28, passed 7-3-1922) Penalty, see § 50.99

**§ 50.05 APPLICATION FOR CONNECTION.**

(A) Any person or corporation desiring to tap the mains or pipes of said water system or make any connection therewith, or use water therefrom, shall make application in writing to the Town Clerk for a permit, which application shall state the name of the applicant, the nature or character of the tap or connection to be made with the waterworks, the point on the water main at which tapping is to be done, the size of the tap and stop cock, the premises to which water is to be conducted, and the character of appliances through which the same is to be used. Said application shall be accompanied by the amount of the charge which has been established by the Board of Trustees for issuing permit and the making of the necessary tap and connection by the Town.

(B) No permit shall be issued until the above tapping fee shall have been paid. It shall be unlawful for any person or corporation to tap or make any connection with the water mains forming a part of the Town waterworks, or to take or use any water from said waterworks without having first obtained a permit therefor, as in this subchapter provided.

(Ord. 28, passed 7-3-1922; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 50.06 CONNECTION SPECIFICATIONS.**

(A) All connections or taps shall be made in conformance with the specifications as may be promulgated by the Board of Trustees and shall be made under the supervision of the Building Inspector, or other designee of the Board of Trustees.

(B) After such tap or connection is made and accepted, the Town shall be the owner of and shall maintain the line from the water main to the meter, and the applicant shall own and maintain the line from the meter to the premises.

**§ 50.07 DEPOSITS.**

A refundable deposit, payable upon application for water service, is required as a condition of providing water service to any customer. The required deposit shall be in an amount determined by the Board of Trustees from time to time by resolution. No interest shall accrue to the customer on such deposit and the deposit shall not prevent shut-off for nonpayment pursuant to the provisions in this chapter. Upon disconnection of water service or closure of the customer's account, the customer may request the deposited funds be applied to unpaid bills, late fees and interest owed on the account, or, if no amount is outstanding on the account at the time of disconnection or account closure, the deposit will be refunded in full to the customer.

**§ 50.08 MONTHLY WATER SERVICE SURCHARGE.**

(A) *Generally.* A monthly water service surcharge shall be due and payable from any and all property located within the Town. The amount of the surcharge shall be set from time to time by

resolution of the Board of Trustees and shall be due regardless of whether any quantity of water is used on property and regardless of whether the unit is occupied and is due beginning on the date a water tap is purchased. A separate minimum monthly surcharge is due from each unit, including each trailer, each apartment, each condominium and any other dwelling unit.

(B) *When due.* The water user fees established herein shall be payable monthly, by the first day of each month. If the charge is not paid by the 15th day of the month after billing, the water user fees shall be delinquent and shall accrue interest at the rate of 10% of the current months charges.

#### **§ 50.09 AUTHORITY TO SET WATER RATES.**

(A) The rates for water shall be as determined by the Board of Trustees and schedules of such rates as established shall be kept on file in the Town Clerk's office.

(B) The Board of Trustees shall also have power to establish the amount of the connection charge or tapping fee which is required in order to connect with or tap the water mains, the amount of the meter deposit to be paid, and such other fees or charges as may be necessary.  
(Ord. 28, passed 7-3-1922)

#### **§ 50.10 FINANCIAL RESPONSIBILITY.**

(A) Owners of property shall be held financially responsible for water used on their premises. Such liability shall be joint and several with that of the customer and shall not relieve the customer from his or her obligation of payment for services when the customer is not the owner.

(B) All unpaid water accounts, together with the costs of collecting them including recording, court and attorney costs, shall be a lien against the property to which water service is provided when certified by the Town Clerk to the County Treasurer in accordance with State law. Such lien shall be prior and superior to all other liens, claims, titles and encumbrances, whether or not prior in time, except liens for general property taxes. The Town may enforce and foreclose the lien against the property, or the personal liability of the owner and customer, or both.

#### **§ 50.11 INTERRUPTION OF SERVICES; NO DAMAGES.**

The Town shall have the right at any time without notice to shut off the water in the Town mains, or any of them, for the purpose of making repairs, connections, extensions or for other useful or necessary purposes, including the right to shut off water for a breach or violation of any provision of this part. No water user or property owner shall be entitled to any damages or to have any portion of payment refunded for any interruption of water supply however the same may be occasioned. Neither the Town nor any of its officers, employees or agents shall be liable to any person or entity, including, but not limited to, any consumer of water or any beneficiary of water, for any interruption of water supply.

**§ 50.12 WATER USE DURING EMERGENCIES.**

It shall be unlawful to use water for sprinkling during any fire or while the Fire Department is using any water for fire purposes, and when the fire alarm is sounded all persons are required to cease sprinkling and immediately shut off their water.

(Ord. 28, passed 7-3-1922) Penalty, see § 50.99

**§ 50.13 NO DAMAGES FOR FAILURE TO SUPPLY.**

Neither the Town, nor any officer, employee or agent of the Town, shall be liable to any person or entity, including but not limited to any consumer of water or any beneficiary of water, by reason of provision of such water or the failure of such supply by the Town, or accident to the water system, or any damage approximate, consequential or remote by reason of the water system or its components.

**§ 50.14 WATER SERVICE RESTRICTIONS.**

(A) In case of water shortage, scarcity or emergency, the Board of Trustees shall have the power to establish by ordinance or resolution any restrictions deemed necessary upon the use of water for nondomestic purposes, including but not limited to irrigation.

(B) In case of an emergency water shortage or scarcity requiring immediate action as determined by the Water Superintendent, the Water Superintendent shall have the power to establish by executive order any restrictions deemed necessary upon the use of water for nondomestic purposes, including but not limited to irrigation. No such order shall be continued or renewed for a period in excess of fourteen days except by ordinance adopted by the Board of Trustees.

**§ 50.15 WASTE OF WATER PROHIBITED.**

(A) Wasting of water is prohibited and all consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. Hose bibs, hydrants, toilets, urinals, bathtubs and other openings must not be left running for any purpose other than the use for which they were intended.

(B) Any consumer, user or other person violating any provision of this section or of any resolution of the Board of Trustees adopted pursuant to this subchapter shall be guilty of a municipal offense and shall be punished by a fine but not imprisonment. The amount of such fine shall be determined by the Municipal Court. Upon a second and each subsequent conviction for such an offense, and in addition to such fine, the Town may discontinue water service to the property served, or the Town may install a flow restriction device upon the service line to the property served to limit water service to that necessary for health and sanitary purposes only. No such discontinuance of, or restriction upon, water service shall

extend more than ten days for each conviction. At least ten days notice and an opportunity to be heard before the Town Clerk shall be given prior to each discontinuance or restriction of water service pursuant to this section.

(Ord. 01-2023, passed 3-13-2023)

#### **§ 50.16 UNLAWFUL CONNECTION; TAMPERING.**

(A) It is unlawful for any person to tap or connect to any mains or hydrants or any portion of the water works of the Town without lawful authority.

(B) It is unlawful for any person to tamper with any meter, or to install or use any bypass or other device whereby water may be drawn from a service pipe without being registered by the meter.

(Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

#### **§ 50.17 RIGHT OF INSPECTION.**

The Town, shall have the right at all reasonable hours, to have full and free access to all parts of premises and buildings where water is delivered or consumed, to examine the water pipes and fixtures, to examine whether there is any unnecessary waste of water, and as to the use made of the water, and upon demand, the owner, lessee, or occupant shall be required to fix all leaky pipes or faucets on the property to the satisfaction of the Water Superintendent.

### ***BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL PROGRAM***

#### **§ 50.25 PURPOSE.**

The purpose of this subchapter is to protect the Town's water system from contaminants or pollutants that could enter the distribution system by backflow from a customer's water supply system through the service connection.

(Ord. 01-2019, passed 4-8-2019)

#### **§ 50.26 AUTHORITY.**

(A) The authority to implement this subchapter is contained in State laws and regulations, including but not limited to, C.R.S. Title 25, Article 1-114 and Article 1-114.1; 5 CCR 1002-11 § 39, Colorado Primary Drinking Water Regulations; and the State's Plumbing Code.

(B) The Town shall have the authority to survey all service connections within the distribution system to determine if the connection is a cross-connection.

(C) The Town may control any service connections within the distribution system in lieu of a survey as long as the service connection is controlled with an air gap or reduced pressure zone backflow prevention assembly.

(D) The Town may impose fees for the administration of this subchapter by resolution of the Board of Trustees.

(E) The Town will maintain records of cross-connection surveys and the installation, testing, and repair of all backflow prevention assemblies installed for containment and containment by isolation purposes.

(F) Except as otherwise provided herein, the Town shall administer, implement, and enforce the provisions of this subchapter.  
(Ord. 01-2019, passed 4-8-2019)

#### **§ 50.27 APPLICATION.**

This subchapter applies to all commercial, industrial, and multi-family residential service connections within the Town's water system and to any persons outside the Town who are, by contract or agreement with the Town, users of the Town's water system. This subchapter does not apply to single-family residential service connections unless the Town becomes aware of a cross-connection at the single-family connection.  
(Ord. 01-2019, passed 4-8-2019)

#### **§ 50.28 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACTIVE DATE.** The first day that a backflow prevention assembly or backflow prevention method is used to control a cross-connection in each calendar year.

**AIR GAP.** A physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel installed in accordance with standard AMSEA 112.1.2.

**BACKFLOW.** The undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the public water systems distribution system from any source or sources other than its intended source.

**BACKFLOW CONTAMINATION EVENT.** Backflow into a public water system from an uncontrolled cross-connection such that the water quality no longer meets the State's Primary Drinking Water Regulations or presents an immediate health and/or safety risk to the public.

**BACKFLOW PREVENTION ASSEMBLY.** Any mechanical assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the mechanical assembly is appropriate for the identified contaminant at the cross-connection and is an in-line field-testable assembly.

**BACKFLOW PREVENTION METHOD.** Any method and/or non-testable device installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the method or non-testable device is appropriate for the identified contaminant at the cross-connection.

**CERTIFIED CROSS-CONNECTION CONTROL TECHNICIAN.** A person who possesses a valid backflow prevention assembly tester certification from one of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA). If a certification has expired, the certification is invalid.

**CONTAINMENT.** The installation of a backflow prevention assembly or a backflow prevention method at any connection to the public water system that supplies an auxiliary water system, location, facility, or area such that backflow from a cross-connection into the public water system is prevented.

**CONTAINMENT BY ISOLATION.** The installation of backflow prevention assemblies or backflow prevention methods at all cross-connections identified within a customer's water system such that backflow from a cross-connection into the public water system is prevented.

**CONTROLLED.** Having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method that prevents backflow through a cross-connection.

**CROSS-CONNECTION.** Any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture, or a customer's water system into a public water system's distribution system or any other part of the public water system through backflow.

**MULTI-FAMILY.** A single residential connection to the public water system's distribution system from which two or more separate dwelling units are supplied water.

**SINGLE-FAMILY.** Includes:

- (1) Single dwelling which is occupied by a single family and is supplied by a separate service line; or
- (2) A single dwelling comprised of multiple living units where each living unit is supplied by a separate service line.

**UNCONTROLLED.** Not having a properly installed and maintained and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross-connection.

**WATER SUPPLY SYSTEM.** A water distribution system, piping, connection fittings, valves, and appurtenances within a building, structure, or premises. **WATER SUPPLY SYSTEMS** are also referred to commonly as premises plumbing systems.

(Ord. 01-2019, passed 4-8-2019)

## § 50.29 REQUIREMENTS.

(A) Commercial, industrial, and multi-family service connections shall be subject to a survey for cross-connections. If a cross-connection has been identified, an appropriate backflow prevention assembly and/or method shall be installed at the customer's water service connection within 120 days of its discovery. The assembly shall be installed downstream of the water meter or as close to that location as deemed practical by the public water system. If the assembly or method cannot be installed within 120 days, the Town has the authority to take action to control or remove the cross-connection, suspend service to the cross-connection, or receive an alternative compliance schedule from the State's Department of Public Health and Environment.

(B) In no case shall it be permissible to have connections or tees between the meter and the containment backflow prevention assembly. In instances where a reduced pressure principle backflow preventer cannot be installed, the owner must install approved backflow prevention devices or methods at all cross-connections within the owner's plumbing system.

(C) Backflow prevention assemblies and methods shall be installed in a location which provides access for maintenance, testing, and repair.

(D) Reduced pressure principle backflow preventers shall not be installed in a manner subject to flooding.

(E) Provisions shall be made to provide adequate drainage from the discharge of water from reduced pressure principle backflow prevention assemblies. Such discharge shall be conveyed in a manner which does not impact waters of the State.

(F) All assemblies and devices shall be protected to prevent freezing. Those assemblies and methods used for seasonal services may be removed in lieu of being protected from freezing. The devices must be reinstalled and then tested by a certified cross-connection control technician prior to the service being activated.

(G) Where a backflow prevention assembly or method is installed on a water supply system using storage water heating equipment such that thermal expansion causes an increase in pressure, a device for controlling pressure shall be installed.

(H) All backflow prevention assemblies shall be tested at the time of installation and on an annual schedule thereafter. Such tests must be conducted by a certified cross-connection control technician.

(I) The Town will require inspection testing, maintenance, and, as needed, repairs and replacement of all backflow prevention assemblies and methods, and of all required installations within the owner's plumbing system in the cases where containment assemblies and/or methods cannot be installed.

(J) All costs for design, purchase, installation, maintenance, testing, and, as needed, repair and replacement shall be borne by the customer.

(K) No grandfather clauses exist except for fire sprinkler systems where the installation of a backflow prevention assembly or method will compromise the integrity of the fire sprinkler system.

(L) For new buildings, all building plans must be submitted to the Town and approved prior to the issuance of water service. Building plans must show:

- (1) Water service type, size, and location;
- (2) Meter size and location;
- (3) Backflow prevention assembly size, type, and location; and
- (4) Fire sprinkler system(s) service line, size, and type of backflow prevention assembly.

(a) All fire sprinkling lines shall have a minimum protection of an approved double check valve assembly for containment of the system.

(b) All glycol (ethylene or propylene) or antifreeze systems shall have an approved reduced pressure principle backflow preventer for containment.

(c) Dry fire systems shall have an approved double check valve assembly installed upstream of the air pressure valve.

(d) In cases where the installation of a backflow prevention assembly or method will compromise the integrity of the fire sprinkler system, the public water system will not require the backflow protection. The public water system will measure chlorine residual at the service connection once a month and perform periodic bacteriological testing at the site. If the Town suspects water quality

issues, the Town will evaluate the practicability of requiring that the fire sprinkler system be flushed periodically.

(Ord. 01-2019, passed 4-8-2019) Penalty, see § 50.99

### **§ 50.30 INSPECTION, TESTING, AND REPAIR.**

(A) Backflow prevention devices or methods shall be tested by a certified cross-connection control technician upon installation and tested at least annually thereafter. The tests shall be made at the expense of the customer.

(B) Any backflow prevention devices or methods that are non-testable shall be inspected at least once annually by a certified cross-connection control technician. The inspections shall be made at the expense of the customer.

(C) As necessary, backflow prevention devices shall be repaired and retested or replaced and tested at the expense of the customer whenever the devices are found to be defective.

(D) Testing gauges shall be tested and calibrated for accuracy at least once annually.  
(Ord. 01-2019, passed 4-8-2019)

### **§ 50.31 REPORTING AND RECORDKEEPING.**

(A) Copies of records of test reports, repairs and retests, or replacements shall be kept by the customer for a minimum of three years.

(B) Copies of records of test reports, repairs, and retests shall be submitted to the Town by mail, facsimile, or e-mail by the testing company or testing technician.

(C) Information on test reports shall include, but may not be limited to:

- (1) Assembly or method type;
- (2) Assembly or method location;
- (3) Assembly make, model, and serial number;
- (4) Assembly size;
- (5) Test date;

- (6) Test results including all results that would justify a pass or fail outcome;
- (7) Certified cross-connection control technician certification agency;
- (8) Technician's certification number;
- (9) Technician's certification expiration date;
- (10) Test kit manufacturer, model, and serial number; and
- (11) Test kit calibration date.

(Ord. 01-2019, passed 4-8-2019)

#### **§ 50.32 RIGHT OF ENTRY.**

A properly credentialed representative of the Town or its designee shall have the right of entry to survey any and all buildings and premises for the presence of cross-connections for possible contamination risk and for determining compliance with this subchapter. This right of entry shall be a condition of water service in order to protect the health, safety, and welfare of customers throughout the Town's water distribution system.

(Ord. 01-2019, passed 4-8-2019)

#### **§ 50.33 COMPLIANCE.**

(A) Customers shall cooperate with the installation, inspection, testing, maintenance, and, as needed, repair and replacement of backflow prevention assemblies and with the survey process. For any identified uncontrolled cross-connections, the Town shall have the authority to complete one of the following actions within 120 days of its discovery:

- (1) Control the cross-connection;
- (2) Remove the cross-connection;
- (3) Suspend water service to the cross-connection; or
- (4) Suspend water service to the property.

(B) The Town shall give notice in writing to any owner whose plumbing system has been found to present a risk to the Town's water distribution system through an uncontrolled cross-connection. The

notice and order shall state that the owner must install a backflow prevention assembly or method at each service connection to the owner's premises to contain the water service. The notice and order will give a date by which the owner must comply with the order.

(1) In instances where a backflow prevention assembly or method cannot be installed, the owner must install approved backflow prevention devices or methods at all cross-connections within the owner's water supply system. The notice and order will give a date by which the owner must comply with the order.

(2) In the event water service is suspended, the water customer and/or owner of the property to which the service is provided will be jointly and severally responsible for paying any cost and fees associated with recommencing water service in accordance with this subchapter.

(Ord. 01-2019, passed 4-8-2019)



## CHAPTER 51: GARBAGE

### Section

- 51.01 Definitions
- 51.02 Accumulation of refuse or yard debris
- 51.03 Collections of refuse, yard debris, conditions of service, and billing
- 51.04 Collections
- 51.05 Fees and collection days
- 51.06 Illegal dumping
- 51.07 Authorized clean-up days

### § 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CUSTOMER.** Any resident person on record with the Town Clerk as receiving regular service and billing from the Town for Sanitation Department services.

**NON-RESIDENT.** Any person(s) not domiciled within the limits of the Town and specifically not a customer of the Town's Sanitation Department. Exception listed under definition of resident.

**OCCASIONAL WASTE MATTER.** Periodic cans, bottles, food containers, and the like, usually generated by individuals at events or on a small, sporadic basis and not specifically by **CUSTOMERS** as defined.

**REFUSE.** Include household waste only, such as garbage, waste paper, household trash, and the like as would normally be generated by residents of a household. **REFUSE** does not include powerful cleaning agents; pesticides; automotive fluids (automotive oil, engine coolant, transmission fluid, and the like); and other materials that present similar hazards to the environment.

**RESIDENT.** Refer to any person(s) domiciled within the limits of the Town, generally a customer of the Town's Sanitation Department. Specific exceptions to this definition shall be in resolution form as adopted by the Board of Trustees. Customers of the municipal water and wastewater systems shall be considered as **RESIDENTS**.

**YARD DEBRIS.** Include lawn clippings, removed weeds, leaves, and the like as would normally be generated for the upkeep and care of a resident lawn, flower beds, and vegetable gardens. **YARD DEBRIS** shall not include tree trimmings, rubbish, tires, discarded wood, appliances, furniture, metals of any kind, batteries, paint, toxins, or any other items not included under the definitions of **REFUSE** and **YARD DEBRIS** as strictly applied to this chapter.  
(Ord. 03-2008, passed 12-1-2008)

#### **§ 51.02 ACCUMULATION OF REFUSE OR YARD DEBRIS.**

The accumulation or collection or refuse or yard debris on private property within the Town limits shall be prohibited and declared a nuisance and shall be enforced under this chapter or any other applicable ordinance of the Town, and persons shall be subject to full enforcement of said violations of those ordinances.  
(Ord. 03-2008, passed 12-1-2008) Penalty, see § 51.99

#### **§ 51.03 COLLECTIONS OF REFUSE, YARD DEBRIS, CONDITIONS OF SERVICE, AND BILLING.**

*(A) Conditions of service and billing.*

(1) The Town shall provide waste receptacles for use only by customers (see definition in § 51.01) of the Sanitation Department. Any receptacle not provided by the Town will be subject to approved use, by the Board of Trustees, before it may be put into active service of the Sanitation Department. No refuse, other than that set forth in § 51.04 shall be collected by agent(s) of the Town that are not contained in the receptacles as furnished or authorized by the Town.

(2) The Town, by and through its duly authorized agent(s), employees, contractors, or Town licensed operators, shall be the agency for the billing of services provided by the Sanitation Department. Nothing in this chapter shall prohibit any resident from contracting with a private trash hauler that is in full compliance with applicable rules and regulations of the Town and the State. Nothing in this chapter shall prohibit any resident from self removal of waste matter provided that it is properly disposed of in conformity with all Town regulations, including provisions of this chapter and statutes of the State.

(3) In compliance with C.R.S. § 30-15-401(4), (5), and (7)(a), all residents are advised that such contracting with private trash hauler or self removal of waste matter shall not affect the fees charged by the Town nor relieve any person from the payment thereof as billed by the Town, by policy, for sanitation charges.

(4) Persons may request sanitation service, with payment at a rate that shall be established by the Board, without having an active water/wastewater account with the Town.

(B) *Exemptions to regulations.* In compliance with C.R.S. § 30-15-401(7)(a), industrial, commercial establishments, and multi-family residences consisting of eight or more units are exempt from required payment of services to the Town unless they are a specific customer of the Town's Sanitation Department.

(Ord. passed 2-2-2009)

**§ 51.04 COLLECTIONS.**

The Town will collect and dispose of refuse and yard debris under the conditions as set forth below.

(A) The items to be collected fall within the strict interpretations of the definitions as set forth in § 51.01.

(B) Items defined as refuse shall be contained within the receptacle as provided by or approved by the Town.

(C) The items as set forth in the description of yard debris in § 51.01 shall be pre-bagged by the customer in garbage bags suitable for such use. Bags shall be set in close proximity to the trash receptacle and shall be collected at the same time as the receptacle waste. If the bag(s) in which the yard debris is contained is of insufficient strength to hold debris and results in the breakage of the bag and the spilling of the contents of such, it shall be incumbent upon the customer to clean up said debris and not the responsibility of the Town or agent(s) thereof.

(Ord. 03-2008, passed 12-1-2008)

**§ 51.05 FEES AND COLLECTION DAYS.**

The fees for the set up of dumpsters, collection, and disposal of refuse and yard debris and any additional collections, as may be requested by customers, charges per receptacle, size and quantity, in service by the Town's Sanitation Department, along with days that waste shall be collected, as well as any other operating costs and expenses, shall be set by resolution of the Board of Trustees and may, at its discretion and discernment, be amended at anytime as required by circumstances as they exist. Public notice will be given as to any change in any fees charged, by resolution, under this chapter. A copy of a calendar with the residential collection days legibly noted shall be created annually by the Town Clerk and shall be available at the Town Hall by December 15 for the next year's collection schedule. A copy of any resolution of the Board of Trustees regarding any fees assessed by effect of this chapter shall be available at the Town Hall and will be provided by the Town Clerk, provided payment received of assessed fees for copies as set forth by resolution in compliance with the revised municipal statutes of the State.

(Ord. 03-2008, passed 12-1-2008)

**§ 51.06 ILLEGAL DUMPING.**

(A) *General regulations.* The service provided by the Town under this chapter is for residents of the Town only unless specified in this section. It shall be unlawful for any non-resident to dump waste of any kind or type into the receptacles provided by the Town and shall be considered to be in violation of this chapter. Any and all costs that may be incurred by the Town for the prosecution, court costs, administrative fees, and incarceration, along with any fines applicable, shall be requested during prosecution and payable upon conviction of any violation(s) of this chapter. It shall be unlawful for any customer of the Town's sanitation services to allow non-residents to use the receptacle provided or approved by the Town, in service, for the dumping of any waste matter of any kind. Any person(s) found to be in violation shall be subject to the same punishment as provided in § 51.99. Resident violators of this chapter shall be subject to appearance before Municipal Court. Non-resident violators of this chapter shall be subject to appearance before Municipal or County Court at the recommendation of general counsel of the Town.

(B) *Exceptions.*

(1) This section shall not apply to persons using receptacles as provided by the Town in public settings, usually consisting of barrels with lids, for occasional waste matter.

(2) This section shall not apply to persons using receptacles as provided by the Town for use in public parks for waste matter as resulting from use of the park for an occasion or event.

(3) This section shall not apply to persons using receptacles as provided by the Town for use in public settings for special events as occasionally hosted by the Town, businesses, clubs, or organizations which are held within the Town.

(Ord. 03-2008, passed 12-1-2008) Penalty, see § 51.99

**§ 51.07 AUTHORIZED CLEAN-UP DAYS.**

The Board of Trustees may, at its discretion and by resolution, set a specific date or dates for the collection and disposal of items that are not in compliance with the definitions as set forth in § 51.01, and may be different as to the collection dates as scheduled. Any such resolution shall be specific in nature, as to what items may be collected and disposed of by the Town, and shall not at any time include any toxins or toxic waste matter or material or any waste matter or materials not accepted at the Town's selected disposal site. A fee, in addition to the regular fees set by resolution, may be charged for collections during an "authorized clean-up day" and appear on the next regular utility bill as issued by the Town. The spirit of this section is for the Town to provide residents with the opportunity to dispose of items that are not specifically defined in § 51.01 to help maintain a cleaner, healthier, and more visually appealing community.

(Ord. 03-2008, passed 12-1-2008)

*[Text continues on page 23]*

## CHAPTER 52: SEWER

### Section

- 52.01 Water service discontinued if sewerage charges are not paid
- 52.02 Extension of facilities authorized
- 52.03 Use of public sewers required
- 52.04 Workmanship and materials
- 52.05 Unlawful discharge

### **§ 52.01 WATER SERVICE DISCONTINUED IF SEWERAGE CHARGES ARE NOT PAID.**

Monthly payments for the use of said system shall be governed by the same rules and regulations as payments for water service. Non-payment of either water or sewer service, as required by such rules and regulations, will require that the water service be discontinued until all water and/or sewer charges have been paid in full. Charges for both services shall continue during the disconnection period, and a reasonable delinquency or hook-up charge shall be made in an amount established by resolution. (Ord. 55, passed 2-25-1974; Ord. 01-2023, passed 3-13-2023)

### **§ 52.02 EXTENSION OF FACILITIES AUTHORIZED.**

Sewerage facilities may be extended beyond the limits of the Town and service rendered to non-residents of the Town upon such terms, rates, and conditions as may be prescribed by the Town Board. (Ord. 55, passed 2-25-1974)

### **§ 52.03 USE OF PUBLIC SEWERS REQUIRED.**

(A) Every occupied structure located within the Town shall be connected to the public sanitary sewer system unless hereinafter excepted. It shall be unlawful for any person to deposit or allow to be deposited in any unsanitary manner on private or public property within the Town or any area under jurisdiction of the Town, any animal waste, garbage, excrement, manure or other objectionable waste or to allow the discharge of any such material in any water or waterway, except where suitable treatment has been provided as required by this code.

(B) No person shall make any connection to the public sanitary sewer system, use, alter, disturb, uncover or make any entry into the public sanitary sewer system without consent of the Water Superintendent.

(C) (1) Where a public sanitary sewer system is not available, either because of distance from any sanitary sewer mains or where terrain makes it impractical or impossible to connect to the sanitary sewer system, private sewage disposal systems may be allowed upon obtaining a permit from the Town. A private sewage disposal permit application shall be filed with the Town; such permit shall be a duplicate copy of the permit application filed with the appropriate State or County agency with jurisdiction over such systems. The permit fee shall be as adopted and amended from time to time by the Board of Trustees. The permit shall not become effective until the installation is completed and has been inspected by the State or County agency and the proper Town administrative authority.

(2) When a public sanitary sewer system becomes available to the property or the property is able to connect to the sanitary sewer system main, which is within 150 feet of the property, then the building service line shall be connected to such sewer system within 180 days and the private sewage disposal system shall be cleaned, inspected and filled with material approved by the Town.

(D) All costs and expenses incident to the installation and connection of the building service line and the service line connection to the sanitary sewer main shall be borne by the property owner. The property owner shall be responsible for any loss or damage that may be occasioned by the installation and connection of the building service line to the sewer main.

#### **§ 52.04 WORKMANSHIP AND MATERIALS.**

(A) Old and previously used service lines may not be used in connection with new buildings, except if they have been inspected and tested and approved by the Water Superintendent.

(B) The size, slope alignment, materials of construction of a building service line and methods to be used for excavating, placing the pipe, jointing, testing, backfilling the trench, shall all conform to the requirements of the Uniform Building Code, the Uniform Plumbing Code and any other applicable rules or regulations of the Town.

(C) No person shall make connection of roof downspouts, exterior foundation drains or any other sources of surface runoff or groundwater to the sanitary sewer system.

(D) No building service line connected to the sanitary sewer system shall be used until a certificate of occupancy has been issued for the building and the service line has been inspected by the Town. Subsequent to such inspection and approval, a monthly user fee shall be due and payable. (Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 52.05 UNLAWFUL DISCHARGE.**

(A) It shall be unlawful to discharge into the sanitary sewer system any of the following:

(1) Stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, unpolluted industrial water or any other water or material inappropriate to the sanitary sewer system; provided, however, the Water Superintendent may grant a written exception to this subsection for the discharge of groundwater into the sanitary sewer system, subject to whatever conditions or requirements the Water Superintendent may require, if the Water Superintendent finds that such discharge is necessary or desirable for the protection of the public health, safety and welfare;

(2) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(3) Any waters or wastes containing toxic or poisonous soils, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, institute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes discharged to the public sewer;

(4) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; and

(5) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders.

(B) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the Water Superintendent, that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Water Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150° F. (65° C.);

(2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred mg/l or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F. (0° C. and 65° C.);

(3) Any garbage that has not been properly shredded; the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76hp metric) or greater shall be subject to the review and approval of the administrative authority;

(4) Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not;

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the administrative authority for such materials;

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies having jurisdiction for such discharge to the receiving waters;

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the administrative authority in compliance with applicable state or federal regulations;

(8) Any waters or wastes having a pH in excess of 9.0; and

(9) Wet wipes, including baby wipes, disinfectant wipes and "flushable" wipes.

**TITLE VII: TRAFFIC CODE**

Chapter

**70. DRIVING REGULATIONS**

**71. RECREATIONAL VEHICLES**

**72. PARKING**



## CHAPTER 70: DRIVING REGULATIONS

### Section

#### *State Regulations*

- 70.01 Adoption of State Code
- 70.02 Amendments and deletions
- 70.03 Enforcement
  
- 70.99 Penalty

#### **STATE REGULATIONS**

##### **§ 70.01 ADOPTION OF STATE CODE.**

Pursuant to C.R.S. Parts 1 and 2, Article 16, Title 31, there is hereby adopted by reference Parts 1 through 19 and Appendix I (Definitions), inclusive, of the 2010 edition of the *Model Traffic Code for Colorado* promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, CO 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of the article in the Model Traffic Code and the code adopted herein is to provide a system of traffic regulations consistent with State law and generally conforming to similar regulations throughout the State and the nation. Not less than one copy of the Model Traffic Code adopted herein is now filed in the office of the Town Clerk of Sedgwick, Colorado, and may be inspected during regular business hours.

(Ord. 01-2011, passed 1-10-2011)

##### **§ 70.02 AMENDMENTS AND DELETIONS.**

The Model Traffic Code is subject to the following amendments and deletions:

(A) Section 1101(2) of the Model Traffic Code is amended by the addition of a new subsection (i) to read as follows:

- (i) Unless otherwise posted, the speed limit upon the streets and highways of the Town of Sedgwick shall be twenty-five (25) miles per hour.

(Ord. 03-2021, passed 9-13-2021; Ord. 01-2023, passed 3-13-2023)

## Sedgwick - Traffic Code

**§ 70.03 ENFORCEMENT.**

This subchapter shall be enforced by the County Sheriff and deputies of the County Sheriff, pursuant to a valid intergovernmental agreement (“IGA”) between the Town and the County Sheriff’s Office. (Ord. 01-2011, passed 1-10-2011)

**§ 70.99 PENALTY.**

(A) (1) Any person who violates any of the provisions of §§ 70.01 and 70.02 or the Town’s Traffic Code commits a traffic infraction unless expressly defined otherwise.

(2) Except as set forth in division (B)(4) below, violations of the Town’s Traffic Code are hereby deemed non-criminal traffic infractions. Traffic infractions are divided into two classes which shall be subject to the following penalties which are authorized upon entry of judgment against the defendant.

<i>Class</i>	<i>Minimum Penalty</i>	<i>Maximum Penalty</i>
A	\$15 penalty	\$100 penalty
B	\$15 penalty	\$100 penalty

(3) For any violation of the Town’s Traffic Code as adopted that is a traffic infraction, no trial by jury shall be available, no arrest warrant shall issue for failure to appear or to pay, no privilege of self-incrimination shall apply, the standard of proof shall be a preponderance of the evidence, and the conduct of all proceedings applicable to such a violation shall otherwise be in conformity with those generally applicable to civil matters. For any violation which is a traffic infraction, the court may enter a judgment of liability by default against the defendant for failure to appear or to pay, and may assess such penalties, together with such court costs and surcharges, as are established by law.

(4) Any violation of the Town’s Traffic Code declared by such Code or by §§ 70.01 and 70.02 to be a misdemeanor shall be a misdemeanor traffic offense. Misdemeanor traffic offenses are divided into two classes that are distinguished from one another by the following penalties that are authorized upon conviction.

<i>Class</i>	<i>Minimum Penalty</i>	<i>Maximum Penalty</i>
1	Ten days imprisonment or \$300 fine, or both	364 days imprisonment, or \$1,000 fine, or both
2	Ten days imprisonment or \$150 fine, or both	90 days imprisonment, or \$500 fine, or both

(5) Any person convicted of a class 1 or class 2 misdemeanor traffic offense may be required to pay court costs and surcharges as established by law, restitution as required by C.R.S. Title 16, Article 18.5, and may be sentenced to perform a certain number of hours of community service or useful public service in addition to any other sentence.

(6) Any traffic infraction or misdemeanor traffic offense defined by law outside of the Model Traffic Code shall be punishable as provided in the statute defining it or as otherwise provided by law.

(7) The penalty assessment procedure in C.R.S. § 16-2-201 shall be followed by the arresting officer for violations of the Town's Traffic Code, except that references to "county" shall be replaced with the term "municipal" and except as otherwise expressly defined in this division (A)(7).

(a) When a penalty assessment notice is left on an unattended vehicle, it shall be a rebuttable presumption that the registered owner of such vehicle was the driver/offender.

(b) Tender by an arresting 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 by the due date listed.

(8) The Town's Traffic Code adopts as the assessed points reported to the State's Department of Revenue, either by the County Sheriff's Office or by the Clerk of the Court, the point system set forth in C.R.S. § 42-2-127(5), as that section may be amended at the time of the issuance of the penalty assessment, adopted by reference, inasmuch as those points correspond to the sections of the Town's Traffic Code, for all offenses where the defendant acknowledges guilt or liability, is found guilty by a court of competent jurisdiction, or has a judgment entered against him or her.

(a) In accordance with the provisions of C.R.S. § 42-2-127(5.5), if a person receives a penalty assessment notice for a violation of the Town's Traffic Code, and such person acknowledges guilt by paying the fine and surcharge on the notice before the due date on the notice, the points assessed against the person's Colorado driver's license and/or Colorado driving privilege will be reduced.

1. For violations having an assessment of three points or more, the points assessed shall be reduced by two points.

2. For violations having an assessment of two points, the points assessed shall be reduced by one point.

(b) The judge shall have no authority to assess any points under C.R.S. § 42-2-127 upon entry of judgment for any Class B traffic infraction.

(Ord. 01-2011, passed 1-10-2011; Ord. 01-2023, passed 3-13-2023)



## CHAPTER 71: RECREATIONAL VEHICLES

Section

### *General Provisions*

71.01 Parking and use of RVs

### *Golf Carts and Off-Highway Vehicles*

71.15 Definitions

71.16 Application

71.17 State regulations apply

71.18 Designated areas of operation

71.19 Time of operation

71.20 Exemptions

71.21 Enforcement

### **GENERAL PROVISIONS**

#### **§ 71.01 PARKING AND USE OF RVs.**

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***RECREATIONAL VEHICLE (RV).*** A vehicular or portable unit mounted on a chassis and wheels, which either has its own motive power or is mounted on or drawn by another vehicle, and that is designed, intended, and used for purposes of temporary living accommodation for recreation, camping, and travel. ***RECREATIONAL VEHICLES*** include, but are not limited to, fifth wheel trailers, pop-up trailers, travel trailers, truck campers, camping trailers, motor homes, and bus campers.

(B) *Parking and use of RVs.*

(1) No recreational vehicle shall be parked in such manner as to create a traffic hazard or block passage on the sidewalk or other right-of-way, whether parked on the street, public or private parking lot, or on private property, and follow the State parking laws.

(2) No vehicle may be parked:

- (a) Within five feet of a public or private driveway;
- (b) Within 15 feet of a fire hydrant;
- (c) Within 20 feet of a crosswalk;
- (d) Within 30 feet of a flashing beacon, signal, stop sign, or yield sign;
- (e) Within 20 feet of a fire station driveway; or
- (f) Within 50 feet of a rail for a railroad crossing.

(3) Except as provided in division (B)(4) below, no person shall use any RV for temporary or permanent living, sleeping, housekeeping, or preparation of food while parked or stopped on a street, public or private parking lot, a vacant lot, or on private property within the Town. There are no exceptions to this for the Commercial or Business Districts.

(4) The owner or occupant of any property located in a Residential Zone District may allow guests traveling in an RV to park their RV on such owner's or occupant's property or adjacent public street for a maximum period of seven consecutive days. Guest RV parking shall be limited to four, seven-day periods per vehicle in 12 consecutive months.

(Ord. 08-2019, passed 9-11-2019; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

### ***GOLF CARTS AND OFF-HIGHWAY VEHICLES***

#### **§ 71.15 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***GOLF CART.*** As defined by in C.R.S. § 42-1-102(39.5), as amended from time to time, shall mean a self-propelled vehicle not designed primarily for operation on roadways and that has:

- (1) A design speed of less than 20 mph;
- (2) At least three wheels in contact with the ground;
- (3) An empty weight of not more than 1,300 pounds; and
- (4) A carrying capacity of not more than four persons.

**OFF-HIGHWAY VEHICLE.** As defined by C.R.S. § 33-14.5-101(3), as amended from time to time, shall mean any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes.

(1) **OFF-HIGHWAY VEHICLES** includes what are commonly called all-terrain vehicles (ATVs) and utility-task vehicles (UTVs).

(2) **OFF-HIGHWAY VEHICLES** does not include the following:

- (a) Vehicles designed and used primarily for travel on, over, or in the water;
- (b) Snowmobiles;
- (c) Military vehicles;
- (d) Golf carts;
- (e) Vehicles designed and used to carry individuals with disabilities;
- (f) Vehicles designed and used specifically for agricultural, logging, or mining purposes;

or

(g) Vehicles registered pursuant to C.R.S. Title 42, Article 3.

**PUBLIC ROAD.** Includes any road, street, or alley within the Town, but shall not include sidewalks, berms, or shoulders.  
(Ord. 3-2016, passed 10-11-2016)

#### § 71.16 APPLICATION.

This subchapter shall apply only to golf carts and off-highway vehicles.  
(Ord. 3-2016, passed 10-11-2016)

**§ 71.17 STATE REGULATIONS APPLY.**

All golf carts and off-highway vehicles shall be subject to the regular restrictions of the *2010 Model Traffic Code for Colorado* including, but not limited to, the following.

(A) The operator of the golf cart or off-highway vehicle shall have in his or her possession a valid motor vehicle driver's license or operator's license.

(B) The operator of the golf cart or off-highway vehicle shall have in full force and effect a complying policy of insurance under the terms of C.R.S. § 10-4-601, covering such golf cart or off-highway vehicle.

(C) Each golf cart and off-highway vehicle shall be equipped with a bicycle safety flag extending not less than seven feet above the ground.

(D) The speed of golf carts and off-highway vehicles shall be limited to no more than 20 mph.

(E) Occupancy shall not exceed the manufacturer's recommended limit.

(F) It shall be unlawful for any person to allow, authorize, suffer, or permit a golf cart or off-highway vehicle owned or belonging to him or her, or that is under his or her control, to be operated by any other person in violation of this subchapter.

(G) It shall be unlawful for any person to operate a golf cart or off-highway vehicle on any public road or roadway in violation of the regulations of C.R.S. Title 42 pertaining to the movement of traffic on roadways within the Town.

(Ord. 3-2016, passed 10-11-2016; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 71.18 DESIGNATED AREAS OF OPERATION.**

(A) It is lawful for golf carts and off-highway vehicles to operate on public roads within the Town.

(B) It shall be unlawful to operate golf carts and off-highway vehicles on public roads that are part of the State highway system, including State Highway 138.

(Ord. 3-2016, passed 10-11-2016; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 71.19 TIME OF OPERATION.**

Vehicles which do not meet the requirements of the *2010 Model Traffic Code for Colorado* for operation after sunset shall only operate during the hours from sunrise to sunset.

(Ord. 3-2016, passed 10-11-2016)

**§ 71.20 EXEMPTIONS.**

It is the intent of the Town Board that the following shall be exempt from the requirements of this subchapter:

(A) Wheelchairs or any device designed to assist mobility-impaired people who use pedestrian rights-of-way; and

(B) Lawn maintenance equipment, including self-propelled mowers.  
(Ord. 3-2016, passed 10-11-2016)

**§ 71.21 ENFORCEMENT.**

This subchapter may be enforced by a law enforcement or peace officer of the County Sheriff's Department or any person designated by the Board of Trustees as a Code Enforcement Officer.  
(Ord. 3-2016, passed 10-11-2016)



## **CHAPTER 72: PARKING**

### Section

#### 72.01 Truck parking

#### **§ 72.01 TRUCK PARKING.**

(A) It shall be unlawful for transport trucks, tractor drawn semi-trailers, or farm trucks over three-fourths ton to park on the street of the Town designated as the west side of Main Avenue between Railroad Street and Second Street, excepting for the purpose of loading and unloading for a period of not to exceed 30 minutes at any one parking place.

(B) Any person who shall violate division (A) above shall, upon conviction thereof, be subject to § 11.02 of this code of ordinances.

(Ord. 48, passed 6-1-1959)



**TITLE IX: GENERAL REGULATIONS**

Chapter

**90. ANIMALS**

**91. NUISANCES**

**92. STREETS AND SIDEWALKS**



## CHAPTER 90: ANIMALS

### Section

#### *Dogs*

- 90.01 Definitions
- 90.02 Licensing and vaccination
- 90.03 Leash law; running at large
- 90.04 Excessive number prohibited
- 90.05 Improper care of dogs; cruelty and neglect
- 90.06 Ownership of dangerous dogs
- 90.07 Unlawful ownership of vicious dogs
- 90.08 Quarantine
- 90.09 Impoundment

#### *Farm Animals*

- 90.20 Definitions
- 90.21 Keeping of livestock and poultry
- 90.22 Failure to keep animals secure and restrained
- 90.23 Removing waste materials
- 90.24 Failure to abate nuisances

#### *DOGS*

### § 90.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BODILY INJURY.*** Any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment, corrective or cosmetic surgery.

***DANGEROUS DOG.*** Includes:

(1) Any dog which, because of its aggressive nature, training, or characteristic behavior, is capable of inflicting serious physical harm or death to humans or domestic animals, and which would constitute a danger to humans, domestic animals, or property if it were not kept in the manner required by this subchapter; and

(2) Any dog which, when unprovoked, chases or approaches a person or domestic animal in a menacing fashion or apparent attitude of attack on public or private property, whether or not the attack is consummated or capable of being consummated.

***DOMESTIC ANIMAL.*** Any dog, cat, pot-belly pig, rabbit, hare, guinea pig, hamster, mouse, rat, ferret, bird, fish, reptile, amphibian, or other small species of animal kept as a pet.

***OWNER.*** Any person, firm, corporation, or organization owning, possessing, harboring, keeping, having a financial or property interest in, or having control or custody of a dog.

***RUNNING AT LARGE.*** A dog off or away from the premises of the owner thereof, and not under the control of such owner or an agent, or representative of same, either by leash, cord, or chain not more than ten feet in length.

***TOWN CLERK.*** The Town Clerk or his or her designee.

***VICIOUS DOG.*** Any dog with a propensity, tendency, or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or any dog, which without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or any dog owned or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting, or any dog which has been found to be vicious by a hearing officer appointed pursuant to § 90.07, or by any court within the State, in a trial or hearing upon a charge of harboring a ***VICIOUS DOG.***

(Ord. 01-2018, passed 4-9-2018)

**§ 90.02 LICENSING AND VACCINATION.****(A) Licensing.**

(1) ***Prohibition.*** It shall be unlawful for any owner to own, possess, harbor, keep, or maintain a dog over the age of six months within the corporate limits of the Town unless such dog has been licensed by the Town. Each license application shall contain the dog owner's name, address, and telephone number, a description of the dog, its breed, color, age, sex, and the license number issued for the dog, and shall be accompanied by a fee in an amount established by resolution of the Board of Trustees. No license shall be issued unless and until the owner of the dog shall exhibit a current valid rabies vaccination certificate indicating that the dog has been vaccinated against rabies by a licensed veterinarian.

(2) *Renewal; fee waiver.* Such registration or licensing shall be renewable annually. Licensing fees shall be waived for any dog being fostered for an animal rescue organization licensed by the State pursuant to the Pet Animal Care and Facilities Act, being C.R.S. § 35-80-101 et seq. Any person requesting a fee waiver on such basis shall submit documents supporting such request at the time of licensing.

(B) *Vaccination.*

(1) *Prohibition.* Except as provided in division (B)(2) below, it shall be unlawful for the owner of any dog over the age of six months to own, possess, harbor, keep, or maintain within the corporate limits of the Town any dog that is not currently vaccinated for rabies, unless such owner presents to the Town Clerk a written statement from a licensed veterinarian that vaccination for rabies would be detrimental to the health of the specific dog. **CURRENTLY VACCINATED** means, with respect to division (A) above, that the dog was initially vaccinated at the appropriate age and thereafter vaccinated on or before the appropriate anniversary date of the initial vaccination by a licensed veterinarian, as evidenced by a rabies vaccination certificate and dog tag, which dog tag must be firmly attached to the collar or harness worn by the dog to whom it has been issued.

(2) *Acquired dog.* Any person who acquires within the Town a dog has a duty to ensure such dog is currently vaccinated, and if it is not, to have such dog vaccinated within 30 days of such acquisition, unless the dog has not yet reached six months of age, in which case the owner shall cause the dog to be vaccinated when it reaches such age. The foregoing shall not apply if such person presents to the Town Clerk a written statement from a licensed veterinarian that vaccination for rabies would be detrimental to the health of the specific dog.

(Ord. 01-2018, passed 4-9-2018) Penalty, see § 90.99

**§ 90.03 LEASH LAW; RUNNING AT LARGE.**

(A) *Leash law.* Except when enclosed within the property of the owner by a fence that does in fact confine the dog to the owner's property, an owner shall control the dog by kennel, carrier, or by leash, cord, or chain not more than ten feet in length.

(B) *Running at large prohibited.* It is unlawful for any person owning, possessing, harboring, keeping, or maintaining any dog to permit the dog to run at large within the Town.

(C) *Exception.* No dog shall be deemed to be running at large when the dog is contained on or restricted to the premises of the owner or custodian by fencing or other means, or when the dog is within an area of land enclosed by fencing defined by signs and markers as a leash-free area.

(D) *Impoundment.* Any dog found running at large shall be taken up and impounded in accordance with § 90.09, unless such dog found running at large was accompanied by its owner, keeper, or custodian and within view and voice control of such person, in which case such person shall be subject to the off-leash penalties set forth in this division (D).

(Ord. 01-2018, passed 4-9-2018) Penalty, see § 90.99

**§ 90.04 EXCESSIVE NUMBER PROHIBITED.**

It is unlawful to own, possess, harbor, keep, or maintain more than three dogs that are four months of age or older on any premises, except for properly licensed veterinary hospitals, shelters, breeding establishments, kennels, pet shops, and education facilities.

(Ord. 01-2018, passed 4-9-2018) Penalty, see § 90.99

**§ 90.05 IMPROPER CARE OF DOGS; CRUELTY AND NEGLECT.**

(A) *Improper care prohibited.* No person shall fail to provide a dog that it owns or that is otherwise within its care with necessary sustenance and shelter, or keep such dog under conditions where its enclosure is not overcrowded, unclean, or unhealthy.

(1) A dog is deprived of necessary sustenance if it is not provided proper food or drink.

(2) An enclosure is overcrowded unless its area is at least the square of the following sum for each dog confined therein: twice the sum of the length of the animal in inches (tip of nose to base of tail) plus six inches.

(3) An enclosure is unclean when it contains more than one day's elimination of each dog enclosed therein.

(4) An enclosure is unhealthy when it is likely to cause illness of the dog.

(B) *Cruelty and neglect prohibited.* No person shall overdrive, overload, overwork, torture, torment, cruelly beat, needlessly mutilate, needlessly shoot at, wound, capture, or kill any dog. Any person that carries or confines a dog in or upon any vehicle in a cruel or reckless manner, uses or allows such dog in fights between animals, or causes, arranges, or sponsors such fights, or otherwise mistreats or neglects any dog, or causes or procures it to be done, or having the charge or custody of any dog, fails to provide it with proper food, drink, or protection from the weather, resulting in the injury, illness, or death of such dog commits a violation of this section. Any person who intentionally abandons an animal commits a violation of this section.

(Ord. 01-2018, passed 4-9-2018) Penalty, see § 90.99

**§ 90.06 OWNERSHIP OF DANGEROUS DOGS.**

(A) *Registration required.*

(1) All owners of dangerous dogs shall register and annually thereafter shall register the dangerous dog and provide a current color photograph of the dog with the Town Clerk's office and pay a registration fee in an amount established by resolution of the Board of Trustees. At the time of registration, each owner of any dangerous dog kept within the Town limits shall provide the Town

Clerk's office with proof of liability insurance for any acts of property damage or liability incurred by virtue of injury inflicted by such dog. Such insurance shall name the Town as coinsured solely for the purpose of notice of cancellation for the policy. Upon payment of the fee, the Town Clerk shall issue a current dangerous dog collar of an approved color for the purpose of identification, and which collar is to be worn by the dog at all times as proof of registration. If, when due to the length of the dog's hair, the collar is not visible, an approved colored leash or chain shall be used. A dangerous dog collar may be removed from a dangerous dog for grooming or purposes of other care when the dog is secured indoors or in an approved pen.

(2) Any person having knowledge which he or she believes constitutes probable cause to believe that another is harboring, keeping, or maintaining a dangerous dog which is not registered with and licensed by the Town in accordance with this subchapter, shall file with the Town Clerk a sworn affidavit setting forth the basis on which he or she believes the animal to be a dangerous dog, the name and address of the owner of the dog, and a description of the dog. The Town Clerk shall, upon receipt of such affidavit, inquire if the dog is currently registered as a dangerous dog pursuant to the provisions of this subchapter. If the dog is not registered, the Town Clerk shall serve notice upon the owner of the alleged dangerous dog. The notice shall include the requirement that the owner shall bring the alleged dangerous dog to the veterinarian stated in the aforementioned notice for inspection to determine whether this dog is a dangerous dog by definition as set forth in this code.

(B) *Requirements of keeping dangerous dogs.*

(1) While on the owner's property, a dangerous dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, and designed to prevent the animal from escaping. Such pen or structure must have a minimum dimension of five feet by ten feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the dog.

(2) The owner or keeper shall display a sign on his or her premises facing out from all sides of the premises warning that there is a dangerous dog on the property. This sign should be visible and capable of being read from a public highway or thoroughfare or within 20 feet of its placement. In addition, the owner shall conspicuously display a sign with a symbol warning children who cannot read of the presence of a dangerous dog.

(3) A dangerous dog may be off the owner's premises if it is muzzled and restrained by an approved lead or chain not exceeding three feet in length and is under the control of an adult, able-bodied person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

(4) The provisions of this subchapter regarding dangerous and vicious animals shall not apply to animals owned by law enforcement agencies and used for law enforcement purposes.  
(Ord. 01-2018, passed 4-9-2018; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 90.07 UNLAWFUL OWNERSHIP OF VICIOUS DOGS.**

(A) *Prohibition.* No person shall own, possess, harbor, keep, or maintain a vicious dog within the Town.

(B) *Defense.* It is a specific defense to the charge of owning or keeping a vicious dog that the injury or damage was sustained by person or animal, who at the time, was:

- (1) Engaging in conduct reasonably calculated to provoke the dog to attack or bite;
- (2) Unlawfully entering into a fenced or enclosed portion of the premises in which the dog was lawfully kept or upon a portion of the premises where the dog was lawfully chained;
- (3) Unlawfully entering a vehicle in which the dog was confined;
- (4) Attempting to assault another person;
- (5) Attempting to stop a fight between the dog and any other animal; or
- (6) Attempting to aid the dog when it was injured.

(C) *Removal or destruction of vicious dog.*

(1) Whenever a determination has been made that any vicious dog is owned, possessed, harbored, kept, or maintained as prohibited by this section, the Board of Trustees may order the owner, keeper, or custodian to show cause as to why the dog should not be removed from Town or impounded and destroyed.

(2) The Board of Trustees shall appoint a hearing officer independent of the Town and set a date for a hearing thereon and cause to be served on the owner, if known, or if the owner is not known, delivered to or posted on the residence of the dog, a notice of the hearing at least ten days prior to the date of the hearing.

(3) If the Town demonstrates at the hearing that the dog was vicious within the meaning of this subchapter, the hearing officer may order the dog removed from the Town, impounded, and destroyed, or may make such other order as in the hearing officer's discretion will provide adequate safety to persons or other animals. Before making such order, the hearing officer may request any report concerning the appropriate disposition of the dog.

(D) *Authorization to remove or destroy dogs.* Nothing in this section shall be construed to prevent any law enforcement officer from taking whatever action is reasonably necessary to protect his or her person or members of the public from injury or damage, including, without limitation, the immediate removal from Town or destruction of any vicious dog without notice to the owner.

(Ord. 01-2018, passed 4-9-2018; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 90.08 QUARANTINE.**

(A) *Quarantine authorized.* A dog which is known to have bitten or injured any person, so as to cause an abrasion of the skin, or a dog which, in the opinion of a member of law enforcement, or any of the persons legally authorized to inoculate and register animals, appears to be inflicted with rabies, shall be closely confined by its owner, in accordance with the direction of a member of law enforcement, or otherwise impounded at the direction of law enforcement for a period of not less than ten days.

(B) *Destruction of dog.* If the owner of a dog referred to in division (A) above cannot be determined or located, then a member of law enforcement shall otherwise confine such dog for a period of not less than ten days. If the owner of such dog is not determined, located, or such dog claimed from confinement within ten days, then a member of law enforcement may order such dog destroyed; provided, however, that all costs incurred for the confinement of a dog under this division (B) shall be paid for by the owner of such dog.

(Ord. 01-2018, passed 4-9-2018; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 90.09 IMPOUNDMENT.**

(A) *Notice of impoundment; redemption.* Except as provided in § 90.07, when any dog has been taken up and impounded, written notice of impoundment shall be posted in a conspicuous place at Town Hall for five days, beginning as soon as practicable after impoundment. If the owner, keeper, or custodian of the impounded dog is known, such additional notice as is practicable shall be given to such person by the Town. Any impounded dogs which are licensed may be redeemed by the owner upon payment of the impound fee established pursuant to division (B) below, any care and feeding charges incurred, any veterinary charges incurred, and any other charges incurred by the Town. Any impounded dog which is not licensed may be redeemed by the owner upon payment of the license fee established pursuant to this subchapter, the impound fee established pursuant to division (B) below, any care and feeding charges incurred, any veterinarian charges incurred, and any other changes incurred by the Town, and upon presentation of proof of rabies vaccination. If the dog is not redeemed within five days, it shall be deemed abandoned, and the dog may be placed up for adoption or euthanized in a humane manner under the supervision of a licensed veterinarian.

(B) *Impound fees.* Impoundment fees shall be established by resolution of the Board of Trustees.  
(Ord. 01-2018, passed 4-9-2018)

***FARM ANIMALS*****§ 90.20 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CERTAIN FOWL AND DOMESTIC ANIMALS.*** Include chickens, ducks, geese, turkeys or other domestic fowl, or any hare or rabbit.

***DOGS, CATS, BIRDS, AND OTHER COMMONLY ACCEPTED TYPES OF HOUSEHOLD PETS OR ADORNMENTS.*** When kept on the premises, primarily as household pets, are specifically excluded from the provisions of this subchapter.  
(Ord. 59, passed 7-19-1978)

**§ 90.21 KEEPING OF LIVESTOCK AND POULTRY.**

(A) It shall be unlawful for any person to keep any livestock or poultry, including but not limited to swine, cattle horses, mules, sheep or goats, turkeys, geese or other farm animals of any kind or nature within the corporate limits of the Town.

(B) Notwithstanding the foregoing, up to ten chickens may be kept on single-family residential lots within the Town, subject to compliance with all applicable Town requirements.

(C) (1) The Board of Trustees may allow exceptions to this section upon a finding that the proposed use will not be detrimental to the surrounding properties and inhabitants. In determining whether the proposed use will be detrimental, the Board of Trustees shall consider the following criteria:

- (a) The size of the property on which the animals will be located;
- (b) How many nuisance effects will be controlled;
- (c) The surrounding land uses; and
- (d) How the animals will be contained on the property.

(2) The Board of Trustees may impose conditions on the proposed use to the extent necessary to ensure compliance with this division (C). Conditions may address, by way of illustration and not limitation, nuisance control, fencing requirements, and time limits on the proposed use.

(Ord. 01-2023, passed 3-13-2023) Penalty. see § 11.02

**§ 90.22 FAILURE TO KEEP ANIMALS SECURE AND RESTRAINED.**

Any person who fails to keep certain fowl or domestic animals securely enclosed in a pen or building or fails to keep the premises on which same are kept clean and wholesome or fails to remove manure and other objectionable waste matter from the premises upon which same are kept, or allows the same to run at large or go on the premises of another, will be guilty of committing an unlawful act hereunder and the unlawful condition will be abatable hereunder as a public nuisance. A violation of this section will arise if the illegal act is not discontinued or if the condition is not corrected within ten days after the Town mails or serves a notice of the commission of the offense or the condition of the premises to the offender, and if not corrected, each day that the offense continues or the conditions continue after such ten-day period shall be a separate offense.

(Ord. 59, passed 7-19-1978; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 90.23 REMOVING WASTE MATERIALS.**

Any person who owns or controls any lot, barn, stable, shed, building, or other place where domestic fowl or domestic animals are kept, shall keep said building and premises in a clean and sanitary condition and shall remove all manure or other objectionable or offensive waste materials therefrom at least once each week. After a ten-day notice has been mailed or served upon the offending party, failure or refusal to correct the condition complained of after such ten-day period will constitute an unlawful act and each day that such condition remains uncorrected will constitute an additional violation of this subchapter.

(Ord. 59, passed 7-19-1978; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 90.24 FAILURE TO ABATE NUISANCES.**

If any person, after having been given the notice herein provided of an alleged violation under this subchapter fails to remedy the condition by removal or disposal of the conditions claimed to be in violation of this subchapter within the time provided will be subject to prosecution as above set forth and the Town is hereby authorized, empowered, and directed to abate such nuisance and to charge the expense thereof to the offending party. Such abatement shall not take place until the offender has been afforded a fair and impartial hearing.

(Ord. 59, passed 7-19-1978)



## CHAPTER 91: NUISANCES

### Section

- 91.01 Definitions
- 91.02 Nuisances prohibited
- 91.03 Specific nuisances declared
- 91.04 Abatement
- 91.05 Emergency abatement
- 91.06 Recovery of expenses; assessment policy
- 91.07 Authority to enter on property
- 91.08 Conflict of law

### § 91.01 DEFINITIONS.

In the interpretation of the definitions set forth in this section, it is the express intent of the Board of Trustees that such definitions be liberally construed to include like matters, materials, objects, or substances, whether or not the same are specifically identified. It is further the expressed legislative intent of the Board of Trustees that the definitions not be considered mutually exclusive, and that, in the interpretation of such definitions, it is recognized that any substance, material, or object may constitute litter, trash, garbage, and junk at the same time. Liberal construction of definitions is deemed necessary by the Board of Trustees in order to fulfill the public purpose of this chapter, which is to ensure that the Town is maintained in a clean, healthy, and attractive condition by eliminating all nuisances, including, but not limited to, the outside storage of garbage, trash, junk, and related matters, objects, or materials as set forth in this chapter. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ABANDONED VEHICLE.*** Any motor vehicle that is:

- (1) Left unattended on private property for a period of 24 hours or longer without the consent of the owner, occupant, or tenant of such property or his or her legally authorized agent;

**Sedgwick - General Regulations**

(2) Left unattended on public property, including any portion of a street or highway right-of-way, within the limits of the Town for a period of 24 hours or longer, unless the owner or driver has conspicuously affixed thereto a dated notice, or otherwise notified the Town of his or her intention to remove such vehicle within 72 hours, or the vehicle is parked on a public street within 50 feet of the property of the owner; or

(3) Any motor vehicle determined to be lost, stolen, or unclaimed.

**BRUSH.** Woody shrubs not part of a planned and maintained landscape of either a highly structured, manicured type or a natural appearance.

**GARBAGE.** Wastes resulting from the handling, preparation, cooking, or consumption of food and wastes from the handling, storage, or sale of produce.

**HOBBY.** The repairing, reconditioning, or rebuilding of all vehicles that is done for personal enjoyment or entertainment only, with no profits, compensation, or reimbursements of any kind involved.

**JUNK.** Scrap brass, scrap copper, scrap iron, scrap lead, scrap zinc, and all other scrap metals and alloys, bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, used tires and other manufactured goods that are so worn, deteriorated, or obsolete as to make them unusable in their existing condition.

**JUNKED VEHICLE.** Any nonoperating vehicle or any dismantled, partially dismantled, discarded, wrecked, rusted, demolished, or partially demolished vehicle.

**LITTER.** Includes any human-made or human-used waste that, if deposited within the Town other than in a litter receptacle, tends to create a danger to public health, safety, and welfare or to impair the environment of the people of the Town. **LITTER** includes any garbage, trash, refuse, confetti, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container, used construction materials, motor vehicles or parts thereof; furniture, appliances such as refrigerators, freezers, ranges, stoves, washers, and dryers, carcass of a dead animal, noxious or offensive (as related to the senses of a person of ordinary intelligence, sensibility, and reasonableness within the community) matter of any kind, or any object that does or may tend to injure any person or create a traffic hazard.

**NONOPERATING VEHICLE.** Any vehicle that is not capable of traveling under its own power in its existing mechanical condition or any vehicle not bearing a valid current registration license plate.

**PERSON.** The owner of, or resident of, any parcel of property, as well as any member of the household residing therein.

**PUBLIC NUISANCE** or **NUISANCE**. A thing, act, failure to act, occupation, activity, condition, or use of property which:

- (1) Annoys, injures, or endangers the safety, health, comfort, or repose of persons;
- (2) Offends the public decency;
- (3) Interferes with, obstructs, or tends to obstruct or render dangerous for passage any lake, stream, canal, or other body of water or a public park, street, alley, or other public way;
- (4) In any way renders persons insecure in life or use of property; or
- (5) Otherwise constitutes or is known or declared a public nuisance by virtue of common law, State statutes, or ordinances of the Town.

**STREET** or **HIGHWAY**. The entire width between the boundary lines of every right-of-way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular travel.

**TRASH**. Combustible refuse, including, but not limited to, paper, cartons, boxes, barrels, wood (except stacked firewood and stacked construction materials), tree branches, yard trimmings, dead plant material, wood or upholstered furniture or bedding, or similar substance or material, noncombustible refuse including, but not limited to, metals, tin, or aluminum cans, metal furniture, dirt, rock, pieces of concrete, glass, crockery, or other minerals or mineral wastes, street rubbish, including, but not limited to, street sweepings, dirt, leaves, catch bag dirt, and contents of litter receptacles; provided, however, that **TRASH** does not include earth and waste from building construction during the period in which a valid building permit issued by the Town is active.

**VEHICLE**. A machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners, or slides to transport persons or property or pull machinery and includes, without limitation, automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy, wagon, and recreational vehicle.

**WEEDS**. Any unsightly, useless, troublesome, or injurious plants, grass, brush, or other noxious vegetation and includes, but is not limited to, all noxious weeds designated in the State's Noxious Weed Act in C.R.S. §§ 35-5.5-101 et seq., as may be from time to time amended. **WEEDS** shall also include all rank vegetable growth that may conceal filthy deposits of rubbish, trash, garbage, junk, or litter or that may conceal any health hazards or unsafe conditions, but does include flower gardens, shrubbery, vegetable gardens, or small grain plots.

(Ord. 03-2011, passed 12-12-2011)

**§ 91.02 NUISANCES PROHIBITED.**

(A) It is unlawful for any person to own, occupy, or have under his or her control any property, building, lot, or premises with any nuisance located thereon. It is unlawful and an offense for any person to:

- (1) Do any act constituting a nuisance;
- (2) Knowingly fail to act where such failure causes or continues a nuisance;
- (3) Permit any activity or condition constituting a nuisance; or
- (4) Aid or abet in the creation or maintenance of a nuisance.

(B) The prohibitions of this section shall apply only to persons in a position to avoid, prevent, or discontinue a nuisance.

(Ord. 03-2011, passed 12-12-2011; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 91.03 SPECIFIC NUISANCES DECLARED.**

The following are declared to be public nuisances except that this section shall not be construed to limit or exclude in any way any thing, act, failure to act, occupation, activity, condition, or use of property which constitutes a nuisance as provided in § 91.01:

(A) *Unclean or defective drain, ditch, or garbage box.* Any unclean, foul, unsafe, unhealthy, dangerous, defective, or filthy drain, ditch, tank, or gutter, or any leaking or broken slop, garbage, or manure box or receptacle of like character shall be deemed a nuisance;

(B) *Accumulation of manure.* Any accumulation of manure on property where animals are kept, unless the premises are kept clean and the manure kept in a box or vault that is screened from flies and emptied at least once a week, shall be deemed a nuisance;

(C) *Pond or pool.* Any pond, pool, stream, ditch, or deposit of water or other liquid or viscous body that is unsafe, dangerous, or detrimental to the public health or safety, or unwholesome or offensive in odor, shall be deemed a nuisance;

(D) *Dense smoke, noxious fumes, gas, soot, or cinders.* The creation of dense smoke, noxious fumes or odors, gas, soot, or cinders in such quantities as to render the same objectionable to the public or harmful to people or property shall be deemed a nuisance; provided, however, this shall not apply to fireplaces, wood stoves, or barbeque facilities;

(E) *Dangerous or dilapidated buildings and structures.* Any building or structure which is so decayed, broken down, disintegrated, dilapidated, or poorly constructed as to constitute a fire hazard or other health or safety hazard to persons or property shall be unlawful;

(F) *Fences and walls.* It shall be unlawful to fail to maintain fences and walls so that they are structurally sound and in good repair or to permit broken, loose, damaged, removed or missing parts (such as, pickets, slats, posts, wood rails, bricks, panels) on such fence or wall.

(G) *Loud and disturbing noises.* Any continuous or repetitious loud noises which disturb or disrupt the peace and quiet of persons shall be deemed a nuisance. Such noises include, but are not limited to, motorized loud speaker devices and malfunctioning or excessively noisy mufflers.

(H) *Litter, garbage, trash, and junk.* It is unlawful for any person to:

(1) Permit litter, junk, trash or garbage to accumulate on any property not zoned for such purposes. All litter, junk, trash or garbage shall be stored in a container or sealed plastic trash bag awaiting prompt pickup and disposal, and the storage area shall be kept free of loose refuse. Any litter, trash, or garbage which by its nature is incapable of being stored in containers or sealed plastic trash bags may be neatly stacked or stored for prompt pickup and disposal. Containers and trash bags shall be secured and placed where they are not susceptible to being spilled by animals or wind or other elements;

(2) Place or to permit to remain anywhere in the Town any garbage or other material subject to decay other than leaves or grass, except in watertight and airtight cans or containers, which neither creates an odor or stench or is accessible to animals. This subsection (2) shall not apply to vegetable materials in any properly layered, actively working compost pile, pit or trench;

(3) Dump or deposit, or to cause to be dumped or deposited, litter, garbage, trash, or junk on the property of another or on property owned by the Town unless such property is clearly marked and designated as a proper dump or receptacle for the deposit of trash, garbage, junk, or litter;

(4) Drive or move any loaded truck or other loaded vehicle within the Town, unless such vehicle is loaded or covered so as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or other public place;

(5) Operate or cause to be operated on any highway or public way in the Town, any truck or vehicle transporting garbage, trash, or junk unless such vehicle or truck is fitted with a substantial, tight box or other container thereon so that no portion of such garbage, trash, or junk shall be thrown or fall upon the highway or public way;

(6) Display, or cause or allow to be displayed, upon his property any junk, unless the junk is completely shielded and screened from the view of any member of the general public by a wall, fence, or other similar barrier constructed in conformance with all ordinances of the Town;

**Sedgwick - General Regulations**

(7) Keep or store any construction materials for construction at that location unless such materials are covered;

(8) Store upon his or her property or to allow to be viewed by the general public, or any member thereof, goods, material, or substances not otherwise or specifically defined or definable as litter, trash, garbage, or junk but which goods, materials, or substances are of a type, kind, quantity, or description not commonly associated with the zoning classification or permitted use of the property;

(9) Use any trailer, whether covered or uncovered, to store any items upon his or her property;  
or

(10) Deposit in or on any street, alley, or public place debris, sod, earth, sand, gravel, concrete, or any other construction waste or material.

(I) *Weeds, brush, leaves, and grass clippings*. It shall be unlawful and is hereby declared a nuisance for any person, corporation, or entity owning, occupying, or managing any lot, tract, or parcel of land within the Town:

(1) To permit weeds, grasses, or brush to grow to a height in excess of ten inches upon any lot, tract, or parcel owned or occupied by such person for a period of more than five days;

(2) To store, keep, or permit to remain on any lot, tract, or parcel owned or occupied by such person trees, limbs, or branches of trees, shrubs, or plants, whether alive or dead, which are dangerous to health or property;

(3) To fail to remove trees, limbs, or branches of trees, shrubs or plants, whether alive or dead, which are dangerous to health or property, together with all litter of all kinds, from any lot, tract, or parcel owned or occupied by such person;

(4) Cause or permit to accumulate any grass clippings or leaves anywhere in the Town except in a container or a sealed, plastic bag awaiting prompt pickup and disposal. This division (I)(4) shall not apply to vegetable materials in any properly layered, actively working compost pile, pit, or trench, or to a thin layer of grass clippings used as mulch, provided the grass clippings are not able to blow from the property and do not cause an odor that can be detected from any adjacent property; or

(5) To permit weeds, grasses, or brush to grow to a height in excess of ten inches, to store, keep, or permit to remain any trees, limbs, or branches of trees, shrubs, or plants, whether alive or dead, which are dangerous to health or property, or to fail to remove the same together with all litter of all kinds, upon and from the area from any lot, tract, or parcel owned or occupied by such person to the middle of any alley abutting behind or on the side of the lot, tract, or parcel, or upon and from the area from any lot, tract, or parcel owned or occupied by such person to the street abutting to the front or on the side of the lot, tract, or parcel, such area to include but not limited to the curb, gutter, and sidewalk.

(J) *Nonoperating, junked, or abandoned vehicles.*

(1) No person shall abandon any motor vehicle upon public property in the Town.

(2) It is unlawful for any person to own or have under his or her control any abandoned vehicle. It shall be an affirmative defense to any criminal charge arising under this division (J) that the vehicle was abandoned without the knowledge and consent of the person charged.

(3) It is unlawful for any person to leave any abandoned or junked vehicle on any street or highway within the Town.

(4) It is unlawful for any person who is the owner of any vehicle, or any person who is in charge or control of property, or any tenant, lessee, occupant, renter, or otherwise, to permit or allow any abandoned or junked vehicle to remain on such property for a time period in excess of 72 hours, provided that this division (J)(4) shall not apply with regard to:

(a) A vehicle or parts of a vehicle in a completely enclosed building;

(b) A vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or

(c) A vehicle in an appropriate storage place or depository maintained for impounded vehicles by the Town or vehicles that are each covered by a fitted, cloth car cover, manufactured for such purpose. Tarps may not be used at any time to cover such vehicles within the Town, and storage of such vehicles is limited to three on any single property, unless otherwise approved in writing by the Board of Trustees or its designee.

(5) It is unlawful for any person to repair, recondition, rebuild, or work on any motor vehicle as a hobby unless such hobby is conducted in and totally contained within a residential or commercial garage, and conducted in a manner so as not to create a safety, health, or fire hazard. This division (J)(5) shall not apply to minor repair and maintenance activities such as, by way of illustration only, the changing of oil, spark plugs, or tires, so long as such minor work does not exceed two days. The sale and/or marketing of more than one each calendar year of any repaired, reconditioned, or rebuilt motor vehicle and of more than one each calendar year of any motor vehicle repair, rebuilding, or reconditioning for which a person receives any compensation shall be deemed a business and must be performed in accordance with all applicable Town ordinances.

(K) *Sewer and septic systems and wells.* It shall be unlawful and is hereby declared a nuisance for any person to maintain or permit within the Town any unauthorized or uncertified sewer or septic system or illegal water well for domestic consumption (this shall not include adjudicated domestic wells for domestic consumption).

(Ord. 03-2011, passed 12-12-2011; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

#### **§ 91.04 ABATEMENT.**

(A) *Purpose.* The purpose of this section is to provide a procedure by which the Town can enforce the various nuisances addressed by this chapter, and to establish a policy authorizing the Town to take corrective enforcement measures should any landowner, tenant, or occupant of any property located within the Town fail to voluntarily comply with any provision of this chapter. Abatement of any nuisance as set forth in this section shall be optional at the sole discretion of the Town, and shall not prevent the Town from availing itself of any other enforcement or criminal action, including the issuance of a summons to appear in Municipal Court or by obtaining a temporary restraining order, injunction, or other appropriate relief in a court of a competent jurisdiction.

(B) *Abatement procedure.*

(1) In all cases where a nuisance shall be found in any building or upon any ground or other premises within the jurisdiction of the Town, notice shall be given in writing, signed by the Mayor or his or her designee, to the owner of the premises or occupant or person in possession, charge, or control of such building or premises, or person creating such nuisance where such person is known and can be found to remove such nuisance. Should any such nuisance, within or upon any public or private premises or as aforesaid, not be corrected within the time period stated in the notice, which period shall be at least ten days, the Town shall have the authority to abate such nuisance.

(2) In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway, or public grounds in the Town, the Town may abate the nuisance forthwith without such notice being given.

(3) The Town may abate any nuisance by authorizing a private contractor to enter the property and remove the condition or conditions and by engaging such other necessary assistance and incurring necessary expenses to abate such nuisance.

(Ord. 03-2011, passed 12-12-2011)

#### **§ 91.05 EMERGENCY ABATEMENT.**

Where, in the opinion of the Mayor or Mayor Pro Tem, a nuisance constitutes an immediate and serious danger to the public health, safety, or welfare, such persons shall have the authority to summarily abate the nuisance without notice of any kind. Recovery of expenses for such emergency abatement may be pursued in accordance with § 91.06.

(Ord. 03-2011, passed 12-12-2011)

**§ 91.06 RECOVERY OF EXPENSES; ASSESSMENT POLICY.**

(A) Upon the Town or contractor abating the nuisance pursuant to § 91.04, a notice of assessment, including the right to a hearing as set forth in this section, shall be sent by first class mail by the Town Clerk to the property owner at the address listed for the property owner in the county records and to the property address. If any such notice is returned, the property shall be posted with the notice. For purposes of this section, **PROPERTY OWNER** shall include renters, lessees, occupants, or persons in possession of the property.

(B) The amount of the assessment shall include, in addition to all contractors' charges, all direct Town costs including inspection costs, attorney fees, court costs, and all other associated costs. The assessment may be paid any time prior to the assessment being certified to the County Treasurer. All payments must be made directly to the Town Clerk.

(C) The property owner shall have 30 days from the date the notice of assessment is mailed, or if the notice is returned from the date the property was posted, to pay the assessment. Failure to pay within the time specified in the notice will cause the assessment to be recorded against the property. The assessment will constitute a continuing lien against such property.

(D) A property owner may file a written objection to such assessment with the Town Clerk within 30 days from the date the notice of assessment was mailed, or if the notice is returned, from the date the property was posted. The objection must include a phone number and address of the objecting party, and must state with specificity the basis for the objection.

(E) Upon receipt of an objection, the Town Clerk or a designated hearing officer shall set a hearing date, which hearing shall be held within 30 days from receipt of the written objection. Notice of the hearing date shall be mailed to the person making the objection. Failure to include all required information in the objection, including the address of the objecting party, will constitute a waiver of the right to file an objection.

(F) The hearing held pursuant to this section shall be conducted in an informal manner, and shall not strictly follow the technical rules of evidence. The Town shall have the burden of establishing there was probable cause to determine a violation existed on the property prior to abatement, and that an abatement was conducted by the Town. The standard of proof at such hearing shall be by a preponderance of the evidence. A written decision shall be prepared at the conclusion of the hearing and mailed to the property owner, which decision shall be deemed effective upon execution of the written decision.

(G) A property owner who requests a hearing pursuant to this section will be charged an additional administrative cost in the amount of the actual cost of the hearing, as determined by the Town Clerk or hearing officer, should the Town Clerk or hearing officer find in favor of the Town. Failure of such person to attend the hearing at the date and time scheduled shall constitute a waiver of such right to a hearing and a determination of all issues regarding the assessment.

(Ord. 03-2011, passed 12-12-2011)

**§ 91.07 AUTHORITY TO ENTER ON PROPERTY.**

The Mayor or his or her designee may, where reasonable cause exists, with or without a warrant issued by a court of competent jurisdiction, including the municipal court, enter upon any land to examine the same to ascertain whether any nuisance exists, or to abate a nuisance in the manner provided in this chapter. The Mayor or his or her designee and each such duly authorized designated agent and officer of the Town shall be free from any action or liability on account thereof. Such authority does not allow entry into any building or structure without consent, a court order, or under other circumstances allowed by law.

(Ord. 03-2011, passed 12-12-2011)

**§ 91.08 CONFLICT OF LAW.**

Notwithstanding the provisions of any zoning ordinance or other ordinance, now or hereafter enacted, authorizing certain uses or location of property, it is the intention of the Board of Trustees, and is hereby so declared, that any use, location, or activity otherwise authorized by zoning ordinances or any other ordinance shall be subject to this chapter prohibiting nuisances.

(Ord. 03-2011, passed 12-12-2011)

## CHAPTER 92: STREETS AND SIDEWALKS

### Section

#### *Curbs and Tree Lines*

- 92.01 Purpose
- 92.02 Curb construction and tree planting requirements
- 92.03 Elevation and grade
- 92.04 Intersections
- 92.05 Curb lines and tree planting
- 92.06 Parking areas
- 92.07 Animals and vehicles not permitted

#### *Sidewalks*

- 92.20 Sidewalk construction
- 92.21 Sidewalk construction materials
- 92.22 Grade requirements
- 92.23 Crosswalk requirements
- 92.24 Notice of construction and excavations
- 92.25 Uniform width in certain areas
- 92.26 Board may order construction or repair
- 92.27 Board may sue to enforce lien
- 92.28 Sidewalk obstructions
- 92.29 Responsibility to maintain sidewalk conditions
- 92.30 Littering and the like

### ***CURBS AND TREE LINES***

#### **§ 92.01 PURPOSE.**

For the purpose of establishing a uniform curb line and tree line within certain portions of the Town, there is hereby created and established within said Town, a district to be known as “Sedgwick Curb Line

and Tree Planting District No. 1”, and shall comprise all of the platted portions of said Town, except the following described platted portions of said Town, to wit: commencing at the point of intersection of the north line of Railroad Street and the east line of West Avenue, thence north along the east line of West Avenue to the point of intersection of the said east line of West Avenue and the south line of Third Street, extended, thence east along the south line of Third Street, extended, and Third Street to the point of intersection of said south line of Third Street and the west line of East Avenue, thence south along the west line of East Avenue to the point of intersection of said west line of East Avenue and the north line of Railroad Street, thence south-westerly along the said north line of Railroad Street to the point of beginning.

(Ord. 23, passed 7-15-1920)

### **§ 92.02 CURB CONSTRUCTION AND TREE PLANTING REQUIREMENTS.**

(A) All curbs hereafter constructed within said curb and Tree Planting District No. 1 shall be constructed of concrete of a thickness of five inches and of a depth of not less than 16 inches, and in accordance with the provisions of this subchapter.

(B) All trees hereafter planted upon the streets and avenues of said Town within said District shall be planted and set upon the lines herein established.

(Ord. 23, passed 7-15-1920)

### **§ 92.03 ELEVATION AND GRADE.**

(A) The grade of all curbs hereafter constructed within said District shall conform to the grade established by ordinance for sidewalks adjacent to said curbs.

(B) The elevation of said curbs at every point on the surface thereof shall be such that a line projected from any such point at right angles with the curb line herein established to the grade line adjacent thereto established by ordinance for sidewalks shall incline one-half inch for each four feet of such projected line, to afford drainage for the sidewalk.

(Ord. 23, passed 7-15-1920)

### **§ 92.04 INTERSECTIONS.**

(A) At all alley and street intersections with said curb line, curbs shall be constructed on uniform curves to be specified by order of the Board of Trustees.

(B) To ensure uniformity in such curves, the Board of Trustees shall furnish at its expense concrete forms for the use of any person desiring to construct a curb at any such intersections.

(Ord. 23, passed 7-15-1920)

**§ 92.05 CURB LINES AND TREE PLANTING.**

(A) The curb lines within said District, on all streets and avenues having a width of 60 feet shall extend upon and along said streets and avenues having a width 60 feet parallel to the property or lot line abutting said streets and avenues a uniform distance of 12 feet from said abutting property lot line.

(B) All trees hereafter planted and set out within said District, upon any street or avenue having a width of 60 feet shall be set in a line parallel to the property or lot line abutting said streets or avenues at a uniform distance of eight feet from said property or lot line.

(C) The curb line within said District on all streets and avenues having a width of 70 feet shall extend upon and along said streets and avenues having a width of 70 feet parallel to the property or lot line abutting said streets and avenues at a uniform distance of 15 feet from said abutting property or lot line.

(D) All trees hereafter planted and set out within said District upon any street or avenue having a width of 70 feet shall be set in a line parallel to the property or lot line abutting said streets or avenues at a uniform distance off nine feet from said property or lot line.

(E) The curb line, within said District, on Main Avenue, shall extend upon and along said Main Avenue parallel to the property or lot line abutting said Main Avenue at a uniform distance of 16 feet from said abutting property or lot line.

(F) All trees hereafter planted and set out within said District, upon Main Avenue, shall be set in a line parallel to the property or lot line abutting said Main Avenue at a uniform distance of 11 feet from said property or lot line.

(Ord. 23, passed 7-15-1920)

**§ 92.06 PARKING AREAS.**

All that part of the streets and avenues of said Town lying between said curb line and the abutting property or lot line, except so much thereof as is necessary for the construction of sidewalks as by ordinance provided, be and the same is hereby set apart for the purpose of parking, and the abutting owners of property are hereby permitted to use the same for such purpose.

(Ord. 23, passed 7-15-1920)

**§ 92.07 ANIMALS AND VEHICLES NOT PERMITTED.**

It shall be unlawful for any person or persons to ride or drive any horse or animal, or to use or drive any vehicles over, upon, or across any portion of such streets and avenues so parked in accordance with

and under the provisions of this subchapter, or in any manner willfully or maliciously trespassing thereon and injuring the same.

(Ord. 23, passed 7-15-1920; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

## ***SIDEWALKS***

### **§ 92.20 SIDEWALK CONSTRUCTION.**

(A) All sidewalk within the corporate limits of the Town, and the necessary grading for the same, shall be constructed, widened, repaired, and when necessary rebuilt, by the owner or owners of the property fronting or abutting on the same, at the expense of such owner. The necessary grading for such sidewalks shall be deemed and included as part of the construction of said sidewalks.

(B) Where sidewalks are built abutting lots at street intersections, the owners of such lots shall at their expense build such sidewalks to the established curb line or the street.

(Ord. 24, passed 7-15-1920)

### **§ 92.21 SIDEWALK CONSTRUCTION MATERIALS.**

(A) All sidewalks shall be constructed, widened, repaired, or rebuilt with cement, stone, or brick only. All sidewalks shall be not less than four inches in thickness, shall be laid upon a good foundation and in a workmanlike manner so as to make a durable sidewalk, and shall be finished, if made of cement, with a rough surface so as to avoid slipping by pedestrians.

(B) All sidewalks shall slope uniformly toward the center of the street, one-half inch to every four feet in width.

(Ord. 24, passed 7-15-1920)

### **§ 92.22 GRADE REQUIREMENTS.**

(A) All sidewalks shall be laid to conform to the grade established for sidewalks by ordinance, and to grade for any proposed sidewalk shall, upon application to the Town Clerk, be furnished by the Town.

(B) Any sidewalk not laid in accordance with the provision of this subchapter may be ordered removed by the Board of Trustees; and said Board may order the said sidewalk constructed in accordance with the provisions of this subchapter by the owner of the property abutting on said sidewalk.

(Ord. 24, passed 7-15-1920)

**§ 92.23 CROSSWALK REQUIREMENTS.**

(A) All street crosswalks shall be laid by the Town and shall be of cement and not less than six inches in thickness, and constructed in accordance with the specifications adopted by the Board of Trustees.

(B) All crosswalks connecting sidewalks four feet in width shall have a surface width of four feet; all crosswalks connecting sidewalks of a width of five feet or over shall have a surface width of five feet. (Ord. 24, passed 7-15-1920)

**§ 92.24 NOTICE OF CONSTRUCTION AND EXCAVATIONS.**

No sidewalks shall be constructed or repaired without notice to and under the supervision of the Street Commissioner, and all excavations or embankments required for any sidewalk shall be made under the supervision of the Street Commissioner.

(Ord. 24, passed 7-15-1920; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 92.25 UNIFORM WIDTH IN CERTAIN AREAS.**

(A) All sidewalks on Main Avenue between the north line of Railroad Street and the south line of Third Street shall be of a uniform width of nine feet measured from the lot line and shall be provided with a curb at the street line of not less than 16 inches in width with a vertical drop of \_\_\_\_\_ inches from the surface of the outer edge of said sidewalk, thus providing a curb gutter.

(B) All sidewalks on First and Second Streets, between the west line of East Avenue and the east line of West Avenue, shall be of a uniform width of six feet, measured from the lot line, and shall be provided with a curb at the street line not less than 16 inches in width, with a vertical drop of \_\_\_\_\_ inches from the surface of the outer edge of said sidewalk, thus providing a curb gutter.

(C) All sidewalks on Main Avenue, north of the north line of Third Street, shall be of a uniform width of five feet, measured from a line in the street two feet from and parallel with the lot line.

(D) All other sidewalks shall be of a uniform width of four feet measured from a line in the street one foot from and parallel with the lot line.

(Ord. 24, passed 7-15-1920)

**§ 92.26 BOARD MAY ORDER CONSTRUCTION OR REPAIR.**

(A) Whenever it shall appear to the Board of Trustees, by petition or otherwise, that a sidewalk should be constructed, widened, repaired, or rebuilt within said Town, it may by resolution order the

construction, widening, repair, or reconstruction of the same by the owner of the property fronting on the same and at the owner's expense, provided that the occurrence of at least four of the members of the Board of Trustees shall be necessary to adopt such order or resolution.

(B) Whenever the Board of Trustees shall direct or order the construction, widening, repairing, or reconstruction of any sidewalk by resolution as aforesaid, it shall state therein the period of time within which the owner may have to construct, widen, repair, or reconstruct such sidewalk, which period shall be not less than ten days nor more than 90 days from the date of the passage of such resolution, and the Town Clerk shall immediately notify all owners of property fronting on the same, their agents, or persons occupying or having charge of such property, in writing, of such order and stating therein the period of time within which the owner may have to construct, widen, repair, or reconstruct such sidewalk. Said notice may be served upon the owner, agent, or person having charge of such property, in case such property is occupied, and in case the owner, agent, or person having charge of such property is absent or unknown, such notice may be served by posting in a conspicuous place on such lot or premises, and the posting of such notice as above provided shall be deemed and held to be complete service of the same.

(C) If such property owners shall not construct, widen, repair, or reconstruct the same according to the requirements of such resolution, and within the time therein named after the service of such notice upon them, the Board of Trustees may order that such sidewalk be constructed, widened, repaired, or reconstructed by the Street Commissioner, and assess the costs thereof against the property fronting upon such sidewalk; the amount so assessed shall be the cost of construction, widening, repairing, or reconstruction of such sidewalk, in proportion to the frontage of such property on such sidewalk, and shall include the cost of service of notice, and all expenses made necessary by proceedings, and the amount so assessed shall be a lien upon the property until the same is paid.

(D) The statement of the Street Commissioner of the cost and expense of such sidewalk as apportioned by him or her shall be accepted, and in case such assessment shall not be paid within ten days after making the same, the Town Clerk shall cause a notice of such assessment to be given to the owners and all other persons interested in such property, as can reasonably be ascertained, by publication in a newspaper published in the Town for two consecutive weeks. Such notice shall state the amount assessed against each lot of other subdivision of property and designate a time and place when the Board of Trustees will hear any objections such owner or other persons interested in such property shall make, and the said Board may correct and perfect any such assessment incorrectly or improperly made, and if such assessments are not paid within ten days after the time fixed for hearing such objections, the Town Clerk shall certify such assessments to the County Assessor, or other proper assessing officer then having possession of the tax list, to be by him or her placed upon such tax list for the current year, to be collected in the same manner as other taxes are collected, with 10% penalty thereon to defray the cost of collection.

(Ord. 24, passed 7-15-1920)

**§ 92.27 BOARD MAY SUE TO ENFORCE LIEN.**

The Board of Trustees may, if it so elects, to bring suit in any court of competent jurisdiction to enforce such lien and collect such assessment.  
(Ord. 24, passed 7-15-1920)

**§ 92.28 SIDEWALK OBSTRUCTIONS.**

It shall be unlawful for any owner, agent, tenant, or other person to erect, put up, or maintain, or cause to permit to be erected, put up, or maintained, any post, prop, hitching post, or any obstruction of any kind whatsoever in or upon any sidewalk or curb now constructed or laid, or that may hereafter be constructed or laid under the provisions of the ordinances of this Town, or to place, keep, maintain, permit, or suffer to be placed, kept, or maintained, any box, barrel, debris, or other obstruction of any kind or nature upon any such sidewalk or curb.  
(Ord. 24, passed 7-15-1920; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 92.29 RESPONSIBILITY TO MAINTAIN SIDEWALK CONDITIONS.**

Every owner, agent, tenant, or occupant of any premises fronting upon any sidewalk constructed and laid under the provisions of the ordinances of the Town, shall keep such sidewalk in front of the premises owned or occupied by such owner, agent, tenant, or occupant, properly swept and clean; shall remove without delay all snow and ice therefrom, and shall keep such sidewalk clear of all noxious and other weeds.  
(Ord. 24, passed 7-15-1920)

**§ 92.30 LITTERING AND THE LIKE.**

It shall be unlawful for any person to spit upon, or throw any offensive, putrid, or decayed matter or substance of any kind upon any sidewalk or curb constructed or laid within the limits of the Town.  
(Ord. 24, passed 7-15-1920; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02



**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110. GENERAL PROVISIONS**

**111. BUSINESS LICENSING REGULATIONS**

**112. MARIJUANA REGULATIONS**



## CHAPTER 110: GENERAL PROVISIONS

Section

### *Lodging Occupation Tax*

- 110.01 Purpose
- 110.02 Definitions
- 110.03 Imposition of tax
- 110.04 Exemptions
- 110.05 Collection of tax
- 110.06 Audit of records
- 110.07 Tax overpayments and deficiencies
- 110.08 Tax information confidential
- 110.09 Forms and regulations
- 110.10 Tax lien
- 110.11 Recovery of unpaid tax
- 110.12 Status of unpaid tax in bankruptcy and receivership
- 110.13 Hearings, subpoenas, and witness fees
- 110.14 Depositions
- 110.15 Statute of limitations
  
- 110.99 Penalty

### ***LODGING OCCUPATION TAX***

#### **§ 110.01 PURPOSE.**

The Board of Trustees hereby finds, determines, and declares:

(A) For the purposes of this subchapter, every person that furnishes lodging for consideration in the town is exercising a taxable privilege. The purpose of this subchapter is to impose a tax which will be paid by every vendor providing such lodging in the town, which tax will provide revenues to be collected, retained, and spent for any lawful municipal purpose;

(B) Pursuant to authority found in the laws of the State, the following lodging occupancy tax is adopted for the purpose of promoting the health, safety, morals, and general welfare of the Town;

(C) The provision of lodging to the traveling public results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services and utilities, and has substantial effect upon the health, safety, and welfare of the citizens of the Town and upon expenditures budgeted by the Town which is a matter of local concern; and

(D) The classification of the provision of lodging as separate businesses and occupations is reasonable, proper, uniform, nondiscriminatory, and necessary.  
(Ord. 02-2010, passed 2-1-2010)

### § 110.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**LODGING.** Hotel rooms, motel rooms, lodging rooms, motor hotel rooms, bed and breakfast rooms, guesthouse rooms, guest ranch rooms, mobile homes, cabins, or other similar accommodations that are rented to persons for a period of less than one month or 30 consecutive days, but shall not include rentals under a written agreement for occupancy for a period of at least one month or 30 days.

**PERSON.** An individual, partnership, firm, joint enterprise, limited liability company, corporation, estate or trust, or any group or combination acting as a unit, but shall not include the United States of America, the State of Colorado, and any political subdivision thereof.

**SALE.** The furnishing for consideration by any person of lodging within the Town.

**TAX.** The tax payable by the vendor or the aggregate amount of taxes due from the vendor during the period for which the vendor is required to pay the occupation tax on the provision of lodging under this subchapter.

**TAXPAYER.** The vendor obligated to pay the tax under the terms of this subchapter.

**VENDOR.** A person furnishing lodging for consideration within the Town.  
(Ord. 02-2010, passed 2-1-2010)

### § 110.03 IMPOSITION OF TAX.

Effective July 1, 2010, there is hereby levied by the Town an occupation tax on the provision of lodging upon every person or business that furnishes any hotel room, motel room, lodging room, motor hotel room, bed and breakfast room, guesthouse room, guest ranch room, mobile home, cabin or other

similar accommodation for consideration for less than one month or 30 consecutive days within the Town in the amount of \$4 per day, per occupied lodging room or accommodation.  
(Ord. 02-2010, passed 2-1-2010)

**§ 110.04 EXEMPTIONS.**

The following transactions shall be exempt from the tax imposed by this subchapter:

(A) Lodging provided by the United States, the State, its departments and institutions, and the political subdivisions of the State;

(B) Lodging provided by those charitable, religious, and eleemosynary organizations that have received and hold from the Internal Revenue Service status under § 501(c)(3) of the Internal Revenue Code as a tax exempt organization, while in the conduct of their regular charitable, religious, or eleemosynary functions and activities; and

(C) Lodging provided to a person who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, bed and breakfast, guesthouse, guest ranch, mobile home, cabin, or other similar business pursuant to a written agreement for a period of at least one month or 30 consecutive days.  
(Ord. 02-2010, passed 2-1-2010)

**§ 110.05 COLLECTION OF TAX.**

(A) Every vendor providing lodging taxable under this subchapter shall remit such tax on or before the twentieth day of each month on account of lodging provided in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe.

(B) The burden of proving that any transaction is exempt from the tax shall be upon the vendor.

(C) It shall be the duty of every vendor to maintain, keep, and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under this subchapter. It shall be the duty of every such vendor to keep and preserve for a period of three years all such books, invoices, and other records, and the same shall be open for examination by the Town Clerk or the Clerk's designee.

(D) The tax to be paid by a vendor shall not be stated and charged separately from the sales price of lodging on any record thereof at the time when the sale is made or at the time when evidence of the

sale is issued; however, the vendor may indicate the sales price includes \$4 per day, the Town's lodging occupation tax.

(Ord. 02-2010, passed 2-1-2010)

#### **§ 110.06 AUDIT OF RECORDS.**

(A) For the purpose of ascertaining the correct amount of the occupation tax on the provision of the lodging due from any person engaged in such business in the Town under this subchapter, the Town Clerk or an authorized agent may conduct an audit by examining any relevant books, accounts, and records of such person.

(B) All books, invoices, accounts, and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts, and records for examination.

(C) Any exempt organization claiming an exemption under the provisions of this subchapter is subject to audit in the same manner as any other person engaged in the lodging business in the Town.  
(Ord. 02-2010, passed 2-1-2010)

#### **§ 110.07 TAX OVERPAYMENTS AND DEFICIENCIES.**

An application for refund of tax monies paid in error or by mistake shall be made within three years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three years of the due date, a vendor overpaid the occupation tax due under this subchapter, the Clerk shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time, the Town Clerk determines the amount paid is less than the amount due under this subchapter, the difference together with interest at the rate of 1.5%, assessed from the date such amount was first due, shall be paid by the vendor within ten days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.

(Ord. 02-2010, passed 2-1-2010)

#### **§ 110.08 TAX INFORMATION CONFIDENTIAL.**

(A) All specific information gained under the provisions of this subchapter which is used to determine 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 representative as confidential. Except as directed by judicial order or as provided in this subchapter, no Town officer, employee, or legal

representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this subchapter or by law, shall be guilty of a violation hereof punishable by a fine but not imprisonment.

(B) The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that such jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.

(C) Nothing contained in this section shall be construed to prohibit: the delivery to the taxpayer or its duly authorized representative a copy of such confidential information relating to such taxpayer; the publication of statistics so classified as to prevent the identification of particular taxpayers; the publication of the aggregate revenues generated by the tax; or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

(Ord. 02-2010, passed 2-1-2010)

**§ 110.09 FORMS AND REGULATIONS.**

The Town Clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment, and collection of said occupation tax on the provision of lodging and, in particular and without limiting the general language of this subchapter, to provide for:

(A) A form of report on the provision of lodging to be supplied to all vendors; and

(B) The records which vendors providing lodging are to keep concerning the tax imposed by this subchapter.

(Ord. 02-2010, passed 2-1-2010)

**§ 110.10 TAX LIEN.**

(A) The tax imposed by this subchapter, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be and until paid, remain a first and prior lien superior to all other liens on all the tangible personal property of a taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the taxpayer is in default in the payment of the tax, interest, penalty, or costs. Such warrant may be served and the goods subject to such lien seized by any Town police officer, the county sheriff of the county wherein the

property may be located, or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk, at public auction after ten days have passed following an advertised notice in a newspaper published in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.

(B) The tax imposed by this subchapter shall be, and remain, a first and prior lien, except as otherwise provided by law, superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

(Ord. 02-2010, passed 2-1-2010)

### **§ 110.11 RECOVERY OF UNPAID TAX.**

(A) The Town Clerk may also treat any such taxes, penalties, costs, or interest due and unpaid as a debt due the Town from the taxpayer.

(B) In case of failure to pay the taxes, or any portion thereof, or any penalty, costs, or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, the reasonable value of any attorney's time or the reasonable attorney's fees charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.

(C) The return of the taxpayer or the assessment made the Town Clerk shall be prima facie proof of the amount due.

(D) Such actions may be actions in attachment, and writs of attachment may be issued to the Town police or the county sheriff of the county wherein the property may be located, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any police officer or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing bond therefor.

(E) It shall be the duty of the Town Attorney, when requested by the Town Board, to commence action for the recovery of taxes due under this subchapter and this remedy shall be in addition to all other existing remedies or remedies provided in this subchapter.

(F) The Town may certify the amount of any delinquent tax, plus interest, penalties, and the costs of collection as a charge against the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent ad valorem taxes.

(Ord. 02-2010, passed 2-1-2010)

**§ 110.12 STATUS OF UNPAID TAX IN BANKRUPTCY AND RECEIVERSHIP.**

Whenever the business or property of a taxpayer subject to this subchapter shall be placed in receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties, and interest imposed by this subchapter and for which the taxpayer is in any way liable under the terms of this subchapter shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this subchapter under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this subchapter, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever land or nature, except the costs of the proceedings and other preexisting tax liens as above provided.  
(Ord. 02-2010, passed 2-1-2010)

**§ 110.13 HEARINGS, SUBPOENAS, AND WITNESS FEES.**

(A) Hearings before the Town Clerk pursuant to provisions in this subchapter shall be held pursuant to this subchapter and rules and regulations promulgated by the Town Clerk. Any subpoena issued pursuant to this subchapter may be enforced by the Municipal Court Judge pursuant to C.R.S. § 13-10-112(2). The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid by the Town. When the witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned, and in such case, the Town Clerk may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

(B) The Municipal Court Judge, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records, or memoranda, and the giving of testimony before the Town Clerk or duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.  
(Ord. 02-2010, passed 2-1-2010)

**§ 110.14 DEPOSITIONS.**

The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law

for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records, or memoranda.  
(Ord. 02-2010, passed 2-1-2010)

#### **§ 110.15 STATUTE OF LIMITATIONS.**

(A) Except as otherwise provided in this section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this subchapter shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable. Nor shall any lien continue after such period, except for taxes assessed before the expiration of such three-year period, notice of lien with respect to which has been filed prior to the expiration of such period.

(B) In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.

(C) Before the expiration of such period of limitation, the taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.  
(Ord. 02-2010, passed 2-1-2010)

#### **§ 110.99 PENALTY.**

(A) (1) It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this chapter, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this chapter. Any person convicted of violating this chapter may be punished as set forth in § 11.02 of this Code.

(2) A penalty in the amount of 10% of the tax due or the sum of \$10, whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the tenth day of the month as required by §§ 110.20 to 110.34, or such other date as prescribed in writing by the Town Clerk, and 1.5% interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive for good cause shown, any penalty assessed.

(3) If any part of a deficiency is due to negligence or intentional disregard of the provisions of §§ 110.20 to 110.34 or rules and regulations concerning the same, but without intent to defraud, then there shall be added 10% of the total amount of the deficiency. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added 50% of total amount of the deficiency. The penalty under this division (B)(3) shall be in addition to the penalty under division (B)(2) above, and in all cases, the whole amount of the unpaid tax, together with all penalties and interest, shall become due and payable ten days after written notice and demand by the Town Clerk.

(4) If any vendor fails to make a return and pay the tax imposed by §§ 110.20 to 110.34, the Town may make an estimate, based upon available information of the amount of tax due and add the penalties and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the vendor at his or her address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten-day period such delinquent taxpayer may petition the Town Clerk for a modification of such assessment and shall, within such ten-day period, furnish the Town Clerk the documents, facts, and figures showing the correct amount of the taxes due and owing.

(5) Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally and shall be given by the taxpayer under penalty or perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of §§ 110.20 to 110.34. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed under the Rule 106(a)(4) of the State's Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of its intention to seek review within ten days after receipt of the final order of assessment.

(Ord. 27, passed 1-9-1922; Ord. 02-2010, passed 2-1-2010; Ord. 06-2017, passed 10-16-2017; Ord. 01-2023, passed 3-13-2023)



## CHAPTER 111: BUSINESS LICENSING REGULATIONS

### Section

#### *General Provisions*

- 111.01 Purpose
- 111.02 Definitions
- 111.03 Conducting business without license deemed unlawful
- 111.04 Exempt activities
- 111.05 Applications
- 111.06 Licenses fee; term
- 111.07 Investigation and issuance
- 111.08 Denial
- 111.09 License contents
- 111.10 License required for each place of business; posting and exhibition
- 111.11 License nontransferable
- 111.12 Renewals
- 111.13 Suspension or revocation
- 111.14 Return of fees

#### *Outdoor Vendors*

- 111.25 License required
- 111.26 Definition
- 111.27 License fees

*License to Sell Alcohol*

- 111.60 State laws to apply
- 111.61 Licensing authority
- 111.62 Application requirements

**GENERAL PROVISIONS****§ 111.01 PURPOSE.**

The purpose of this subchapter shall be to require the licensing of all business activities and enterprises physically located within the Town and to provide the Town with necessary information concerning the businesses within the Town, including, but not limited to, the nature of the business operation, the number of employees, place of business, and emergency contacts, in order to protect the health, welfare, and safety of the Town's inhabitants.

(Ord. 02-2019, passed 4-8-2019)

**§ 111.02 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUSINESS.** Includes all kinds of vocations, occupations, home occupations, professions, enterprises, and establishments, any of which are conducted on any premises within the Town or anywhere else within its jurisdiction.

**PREMISES.** Includes all land, structures, and places, and the equipment and appurtenances connected or used therewith, in any business, and also any personal property which is either affixed to, or otherwise used in connection with, any such business conducted on the premises.

**TOWN CLERK.** The Town Clerk for the Town of Sedgwick or such person's designee.  
(Ord. 02-2019, passed 4-8-2019)

**§ 111.03 CONDUCTING BUSINESS WITHOUT LICENSE DEEMED UNLAWFUL.**

It is unlawful for any person, whether as a principal, agent, clerk, or employee, either for himself, herself, or for any other person, corporation, or otherwise, to commence, carry on, or establish any kind of business without first having received from the Town a business license to do so or without complying with any and all regulations of such business contained in this subchapter.

(Ord. 02-2019, passed 4-8-2019) Penalty, see § 11.02

**§ 111.04 EXEMPT ACTIVITIES.**

(A) The provisions of this subchapter shall not apply to:

- (1) Any canvassing on behalf of a candidate for elective public office or for proponents of a measure to be placed on the ballot;
- (2) Activity consisting solely of mere delivery in the Town where no intent exists or is shown to exist to evade the provisions of this subchapter;
- (3) The selling of newspapers on public streets or in public places in a manner otherwise in compliance with Town ordinances;
- (4) Established delivery routes, persons calling by appointment, yard sales, or garage sales;
- (5) Activities of the federal or State government or municipal corporations; and
- (6) Occasional babysitting not including childcare operations.

(B) The burden of proving an exemption to this subchapter is upon the person claiming such exemption. Determinations regarding the application of an exemption shall be made in writing by the Town Clerk. The business subject to such determination may appeal the determination to the Town Mayor, whose decision shall be final. Any appeal to the Town Mayor shall be made in writing within 15 days of the Clerk's determination.

(Ord. 06-2019, passed 7-8-2019)

**§ 111.05 APPLICATIONS.**

(A) Every person required to obtain a license under this subchapter shall submit a license application to the Town Clerk.

(B) The application shall contain:

- (1) The name of the business for which a license is requested, and the name of the person, firm, or corporation requesting such license;
- (2) The residence address of the applicant and, if the applicant is an entity, the names of the officers, directors, and owners of such entity and the address of such entity's principal place of business;
- (3) The nature of the business to be performed, practiced, or carried out;
- (4) The street address, if any, where such business is to be carried on;

(5) The telephone number of the business, the name of the manager of the business, if any, and the number of employees of the business;

(6) The year for which such license is sought;

(7) A copy of the State sales tax license for the business; and

(8) Any other relevant information required for compliance with this subchapter or deemed to be reasonably necessary by the Town Clerk for the fair administration of this subchapter.

(Ord. 02-2019, passed 4-8-2019; Ord. 01-2023, passed 3-13-2023)

#### **§ 111.06 LICENSES FEE; TERM.**

(A) There shall be paid by each applicant for a business license a non-refundable annual business license fee in an amount set by resolution of the Board of Trustees. Such fees shall be paid in advance at the time application therefor is made to the Town Clerk. For business licenses issued after June 30 of any year, the license fee for the year of issuance will be one-half of the annual license fee.

(B) All licenses shall expire on January 1 of each calendar year unless sooner revoked, cancelled, or suspended.

(C) License issuance, requirement, and enforcement will begin January 1, 2020.

(Ord. 02-2019, passed 4-8-2019; Ord. 06-2019, passed 7-8-2019)

#### **§ 111.07 INVESTIGATION AND ISSUANCE.**

(A) Upon receipt of the application containing the information set forth in the preceding section, proof that the annual fee therefor has been paid, and compliance with all other provisions of this subchapter, the Town Clerk shall issue and deliver to the applicant the license requested.

(B) The business license required by this subchapter shall be in addition to any other license or permit required by the Town's ordinances, and the issuance of a general business license does not permit any conduct that is prohibited or that does not fully comply with the requirements of the Town's ordinances. By way of example and not limitation, a general business license does not permit:

(1) The conduct of any business if the premises to be used for the business and the proposed conduct of such business do not fully comply with the requirements of the Town's ordinances;

(2) The conduct of any business or performance of any act that would constitute a violation of the Town's zoning ordinances; or

(3) The conduct of any business that violates any existing State or federal statute or ordinance.

(Ord. 02-2019, passed 4-8-2019)

**§ 111.08 DENIAL.**

(A) The Town Clerk may deny an application for a license or for a renewal upon a determination that:

(1) The applicant has failed to supply any of the information required on the application or by the Town Clerk pursuant to § 111.04;

(2) The conduct of the business for which a license is requested would be in violation of any provision of any Town ordinance or State or federal statute; or

(3) The applicant has failed to pay the required license fee.

(B) If the Town Clerk denies a license application under this section, the Town Clerk shall notify the applicant in writing stating the specific grounds for the denial. The applicant may thereafter appeal the denial of the application by the Town Clerk to the Town Board. Any appeal to the Town Mayor shall be made in writing within 15 days of the Clerk's denial of the license.

(Ord. 02-2019, passed 4-8-2019; Ord. 01-2023, passed 3-13-2023)

**§ 111.09 LICENSE CONTENTS.**

Each license issued pursuant to this subchapter shall be signed by the Town Clerk under the seal of the Town. Each license shall show upon its face the name of the person to whom it has been issued, the street address where any business is to be carried on, the amount paid therefor, the year for which such license is issued, and any other information required by this subchapter to be displayed thereon.

(Ord. 02-2019, passed 4-8-2019)

**§ 111.10 LICENSE REQUIRED FOR EACH PLACE OF BUSINESS; POSTING AND EXHIBITION.**

(A) A separate license must be obtained, and a separate license fee paid for each branch, establishment, or separate place of business in which a business is carried on.

(B) Every license for a business to be conducted at a particular street address shall be posted conspicuously, in public view, at each such address during the period such license is valid. It shall be the duty of each and every person to whom a license has been issued by the Town, to exhibit the same upon the request of any law enforcement officer, inspector, or other officer of the Town.

(Ord. 02-2019, passed 4-8-2019)

**§ 111.11 LICENSE NONTRANSFERABLE.**

No license may be transferred or assigned from one person to another, or from one place to another. (Ord. 02-2019, passed 4-8-2019)

**§ 111.12 RENEWALS.**

(A) Unless specifically otherwise stated, all annual licenses may be renewed upon application and payment of the annual license fee to the Town Clerk. The license will be renewed if there has been no change in the application information relating to the business. The application for renewal and the fee therefor shall be submitted to the Town Clerk on or before the expiration date of the current license.

(B) If the application for renewal and fee therefor are not received on or before the expiration date of the current license, and the licensee continues to engage in the business for which the license was issued, then in addition to other penalties which may be imposed, a penalty of 10% of the amount of the license fee shall be added on the last day of each calendar month after the expiration date. In addition to the above penalty provision, it is unlawful for a licensee to continue to engage in any business or activity after his or her license therefor has expired.

(Ord. 02-2019, passed 4-8-2019) Penalty, see § 11.02

**§ 111.13 SUSPENSION OR REVOCATION.**

(A) In addition to any other ordinances of the Town, the Town Clerk may suspend or revoke a license or permit issued under this subchapter (subject to such determination may appeal the determination to the Town Board):

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

(2) When the licensee or his or her employee or agent violates any federal, State, or local rule, regulation or law pertaining to the business; or

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

(B) If the Town Clerk finds one of the grounds in division (A) above, the Town Clerk shall determine whether to cancel the license, revoke the license for the remainder of its term, or suspend it for any shorter period according to the severity of the disqualification, its effect on public health, safety, and welfare, and the time during which the disqualification can be remedied, if at all.

(C) Before the hearing required in division (D) below, the Town Clerk may suspend a license for up to 14 days if the Town Clerk determines that the suspension is in the interest of public health, safety, and welfare. The Town Clerk may include in the temporary suspension reasonable orders or conditions

with which the licensee shall comply to protect any work in progress and the public health and safety. Any breach of such conditions or orders is an independent ground for suspension or revocation of the license.

(D) Except for such emergency suspension authorized by division (C) above, no such suspension or revocation is final until the licensee has been given the opportunity for a hearing before the Town Board to contest the suspension or revocation.

(E) If, after a hearing, the suspension or revocation is upheld, the Town Board may include reasonable orders or conditions with which the person whose license has been suspended or revoked shall comply to protect any work in progress and the public health, safety, and welfare.

(F) No person whose license is revoked under this subchapter may receive a refund of any part of the license fee paid for the license.

(G) No person who has had a license suspended or revoked under this subchapter is entitled to obtain the same or any similar license under the Town's ordinances during the period of suspension or revocation, either in the person's own name or as a principal in another business that applies for a license.

(H) Nothing in this subchapter shall be deemed to prohibit the Town Clerk or other authority from imposing other penalties authorized by this subchapter or other ordinance of the Town, including filing a complaint with the Town Board for a violation of this subchapter or other ordinance of the Town. (Ord. 02-2019, passed 4-8-2019; Ord. 06-2019, passed 7-8-2019; Ord. 01-2023, passed 3-13-2023)

**§ 111.14 RETURN OF FEES.**

Upon refusal of any application for a license, or in the event that any license is suspended or revoked, all monies paid therefor shall be and remain the monies of the Town, and no refund shall be made to any applicant or licensee. (Ord. 02-2019, passed 4-8-2019)

***OUTDOOR VENDORS***

**§ 111.25 LICENSE REQUIRED.**

It shall be unlawful for any outdoor vendor to engage in such business upon any private or public property within the Town without first obtaining a license in compliance with this subchapter. Licenses

are available from the Town Clerk at the Town Hall during normal Town Hall business hours. Application for each license must be made at least 24 hours before the event at which they desire to engage in such business.

(Ord. 07-2006, passed 7-3-2006) Penalty, see § 11.02

#### § 111.26 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**OUTDOOR VENDOR.** Includes any person, whether as owner, agent, consignee, or employee, who sells or attempts to sell services, goods, wares, or merchandise, including food or beverage from any outdoor location. An **OUTDOOR VENDOR** shall not include:

(1) Any person selling from outdoor locations on private property, or public property adjacent to such private property, who also sell such services, goods, wares, or merchandise indoors at the same location and have a valid sales tax license from the Town; or

(2) Yard sales or garage sales in a residential area lasting no longer than two consecutive days and occurring no more than three times annually at the same location.

(Ord. 07-2006, passed 7-3-2006)

#### § 111.27 LICENSE FEES.

The following fees and surcharges shall be assessed per day for each license:

(A) Person selling from small, movable equipment such as coolers, or small folding tables who is not in the business of regularly selling the same goods or services: In an amount set by resolution of the Board of Trustees;

(B) Non-profit organizations holding a valid certification as being exempt from federal tax under 26 U.S.C. § 501(c)(3): In an amount set by resolution of the Board of Trustees;

(C) Person selling from mobile equipment such as motorized vehicle, trailer, camper, or other device containing equipment for such services and goods: In an amount set by resolution of the Board of Trustees;

(D) Person connecting to electrical facilities, an “energy surcharge” in addition to the fee in divisions (A) or (C) above: In an amount set by resolution of the Board of Trustees;

(E) Person connecting to or using any portion of the Town’s water system, a “water surcharge” in addition to the fee in divisions (A) or (C) above: In an amount set by resolution of the Board of Trustees; and

(F) Person connecting to or using any portion of the Town’s wastewater system, a “wastewater surcharge” in addition to the fee in divisions (A) or (C) above: In an amount set by resolution of the Board of Trustees.

(Ord. 07-2006, passed 7-3-2006)

***LICENSE TO SELL ALCOHOL***

**§ 111.60 STATE LAWS TO APPLY.**

The Colorado Liquor Code, and all related rules and regulations shall apply to liquor licensing applications, proceedings and suspensions and revocations.

**§ 111.61 LICENSING AUTHORITY.**

(A) The local licensing authority (the “Authority”) for the Town shall be the Board of Trustees.

(B) The Town Clerk shall assist the Authority by receiving all applications; coordinating with other town officers and departments when relevant; and scheduling required public hearings.

**§ 111.62 APPLICATION REQUIREMENTS.**

(A) All applications for licensing actions shall be filed with the Town Clerk on prescribed forms, together with applicable fees.

(B) The fees payable for each type of application shall be as established by Board of Trustees from time to time by resolution.

*[Text continues on page 25]*



## CHAPTER 112: MARIJUANA REGULATIONS

### Section

#### *Medical Marijuana Operations*

- 112.001 Definitions
- 112.002 License required
- 112.003 Types of licenses
- 112.004 Local licensing authority
- 112.005 Application for license
- 112.006 Persons prohibited as licensees and managers
- 112.007 Licensing restrictions and requirements
- 112.008 Licensing procedures
- 112.009 Duties of licensee
- 112.010 License duration; renewal
- 112.011 Transfer; change of location; modification of premises
- 112.012 Suspension or revocation; fine in lieu
- 112.013 Application and license fees
- 112.014 Right of entry
- 112.015 No waiver of governmental immunity
- 112.016 No Town liability
- 112.017 Indemnification of Town
- 112.018 Penalty

#### *Retail Marijuana Establishments*

- 112.030 Definitions
- 112.031 License required
- 112.032 Types and numbers of licenses
- 112.033 Local licensing authority
- 112.034 Screening and response to State license applications
- 112.035 Application for license
- 112.036 Persons prohibited as licensees and managers
- 112.037 Licensing restrictions and requirements
- 112.038 Co-location of medical marijuana operations and retail marijuana establishments
- 112.039 Licensing procedures
- 112.040 Duties of licensee
- 112.041 License duration; renewal
- 112.042 Transfer; change of location; modification of premises

- 112.043 Suspension or revocation; fine in lieu
- 112.044 Application and license fees
- 112.045 Right of entry
- 112.046 No waiver of governmental immunity
- 112.047 No Town liability
- 112.048 Indemnification of Town
- 112.049 Penalty

***Marijuana Cultivation, Testing, and Products Manufacturing Regulations***

- 112.060 Definitions
- 112.061 Application
- 112.062 Compliance with other applicable laws
- 112.063 Business conducted within building
- 112.064 Use of pesticides
- 112.065 Ventilation required
- 112.066 Organization of cultivation facilities and product manufacturers
- 112.067 Labeling and packaging requirements
- 112.068 Use of flammable materials
- 112.069 Use of carbon dioxide (CO<sub>2</sub>) systems
- 112.070 Product extraction processes
- 112.071 Exiting and security
- 112.072 Fire extinguishers
- 112.073 Interior finishes
- 112.074 Electrical
- 112.075 Application of Fire Code; site inspection
- 112.076 Cost of inspections and reports
- 112.077 Penalty

***Retail Marijuana Sales Tax***

- 112.090 Legislative intent
- 112.091 Definitions
- 112.092 Retail marijuana sales tax
- 112.093 Collection of tax
- 112.094 Audit of records
- 112.095 Tax overpayments and deficiencies
- 112.096 Tax information confidential
- 112.097 Forms and regulations
- 112.098 Failure to pay tax
- 112.099 Tax lien
- 112.100 Recovery of unpaid tax
- 112.101 Status of unpaid tax in bankruptcy and receivership
- 112.102 Hearings, subpoenas, and witness fees
- 112.103 Depositions

- 112.104 Statute of limitations
- 112.105 Right to amend
- 112.106 Penalty

***Retail Marijuana Cultivation Facility Excise Tax***

- 112.115 Definitions
- 112.116 Imposition and rate of tax
- 112.117 Vendor liability for collecting the tax
- 112.118 Collection and reporting
- 112.119 Duty of vendors to keep records
- 112.120 Administration
- 112.121 Use of revenues
- 112.122 Audit of records
- 112.123 Tax overpayments and deficiencies
- 112.124 Failure to pay tax
- 112.125 Tax lien
- 112.126 Recovery of unpaid tax
- 112.127 Status of unpaid tax in bankruptcy and receivership
- 112.128 Hearings, subpoenas, witness fees, and depositions
- 112.129 Statute of limitations
- 112.130 Right to amend
- 112.131 Penalty

***Occupation Tax on Retail Marijuana Products Manufacturing Facilities***

- 112.140 Purpose
- 112.141 Definitions
- 112.142 Levy of tax
- 112.143 Collection of tax
- 112.144 Audit of records
- 112.145 Tax overpayment and deficiencies
- 112.146 Tax information confidential
- 112.147 Forms and regulations
- 112.148 Failure to pay tax
- 112.149 Tax lien
- 112.150 Recovery of unpaid tax
- 112.151 Status of unpaid tax in bankruptcy and receivership
- 112.152 Hearings, subpoenas, and witness fees
- 112.153 Depositions
- 112.154 Statute of limitations
- 112.155 Right to amend
- 112.156 Penalty

***MEDICAL MARIJUANA OPERATIONS*****§ 112.001 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless otherwise defined in this section or the context clearly indicates otherwise, any word or term used in this section that is defined in Amendment 20 or in the State's Marijuana Code shall have the same meaning that is ascribed to such, word or term in Amendment 20 or in the State's Marijuana Code.

***AMENDMENT 20.*** The voter-initiated amendment to the Colorado Constitution adopted November 7, 2000 and subsequently codified at § 14 of Article XVIII of the Colorado Constitution.

***APPLICANT.*** Any person seeking to obtain a local license for the purposes of operating a medical marijuana operation within the jurisdictional limits of the Town.

***COLORADO MARIJUANA CODE.*** C.R.S. Title 44, Article 10, as amended from time to time, promulgated by the State's Department of Public Health and Environment, the State's Department of Revenue, and the State licensing authority.

***GOOD CAUSE.*** For the purposes of refusing or denying a license renewal or initial license issuance shall mean:

- (1) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the State's Marijuana Code, this subchapter, or any other Town ordinance, local law, rule, or regulation;
- (2) The licensee or applicant has failed to comply with any special term or condition that was placed on its license by the State licensing authority or local licensing authority; or
- (3) The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the medical marijuana operation is located.

***LICENSEE.*** A person licensed to operate a medical marijuana operation pursuant to this subchapter.

***LOCAL LICENSE.*** The license issued by the Town pursuant to the provisions of this subchapter authorizing a person to commence, establish, and operate a medical marijuana operation within the Town.

***MEDICAL MARIJUANA.*** Marijuana that is grown and sold pursuant to the provisions of the State's Medical Code and for a purpose authorized by Amendment 20.

**MEDICAL MARIJUANA CENTER.** Has the same meaning as is set forth in Colorado Marijuana Code, as amended from time to time, but shall not include a primary caregiver.

**MEDICAL MARIJUANA OPERATION.** The premises occupied by a medical marijuana center, an optional premises cultivation operation, or a medical marijuana-infused products manufacturer.

**MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER.** Has the same meaning as is set forth in Colorado Marijuana Code, as amended from time to time.

**OPTIONAL PREMISES CULTIVATION OPERATION.** Has the same meaning as is set forth in Colorado Marijuana Code, as amended from time to time.

**PATIENT.** A natural person permitted to lawfully purchase, receive, and use medical marijuana in accordance with the terms of Amendment 20.

**PERSON.** Includes any natural person, partnership, association, company, corporation, limited liability company, or any agent or officer thereof.

**PREMISES.** A distinct and definite location, including but not limited to, a building, a portion of a building, a room, or any other definite contiguous area.

**PRIMARY CAREGIVER.** Has the same meaning as set forth in Amendment 20, the State's Marijuana Code, and any applicable administrative regulation.

**SCHOOL.** A public or private preschool or a public or private elementary, middle, junior high, or high school.

**STATE LICENSING AUTHORITY.** The authority created under the State's Department of Revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marijuana.

**TOWN.** The Town of Sedgwick.  
(Ord. 03-2010, passed 12-13-2010)

**§ 112.002 LICENSE REQUIRED.**

(A) No person shall commence, operate, or establish a medical marijuana operation without obtaining both State and local licenses, the latter of which shall be issued by the local licensing authority consistent with the terms of this subchapter and shall be renewed on an annual basis.

(B) Notwithstanding the foregoing, the following persons shall not be required to obtain a local license:

(1) Patients lawfully registered with the State for the purposes of using medical marijuana to treat a debilitating medical condition; and

(2) Any individual registered with the State as a primary caregiver and operating lawfully as such under the applicable laws and regulations.

(C) The licensing requirements set forth in this section shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by the State's Marijuana Code and any other federal, State, or local law. For example, a medical marijuana operation also must obtain State retail sales tax licenses and must comply with applicable building code and permit requirements.

(Ord. 03-2010, passed 12-13-2010)

### § 112.003 TYPES OF LICENSES.

The Town shall issue the following three types of local licenses.

(A) *Medical marijuana center license.* A medical marijuana center license may be issued to an applicant who submits a valid application to lawfully sell medical marijuana pursuant to the terms and conditions of Colorado Marijuana Code.

(B) *Medical marijuana-infused products manufacturing license.* A medical marijuana-infused products manufacturing license may be issued to an applicant who submits a valid application to lawfully manufacture and sell medical marijuana-infused products pursuant to the terms and conditions of Colorado Marijuana Code.

(C) *Optional premises cultivation license.* An optional premises cultivation license may be issued to an applicant, who submits a valid application to lawfully grow and cultivate medical marijuana pursuant to the terms and conditions of Colorado Marijuana Code. An optional premises cultivation license shall only be issued to a person who is applying for or has applied for and is issued a medical marijuana center license or a medical marijuana-infused products manufacturing license.

(Ord. 03-2010, passed 12-13-2010)

### § 112.004 LOCAL LICENSING AUTHORITY.

(A) For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marijuana in the Town, there is hereby created the local licensing authority of the Town, which shall be the Board of Trustees unless and until it delegates its authority vested herein to some other entity by resolution.

(B) The local licensing authority shall have such powers and duties as are provided for in this subchapter and in the State's Marijuana Code.

(C) Any action taken by the local licensing authority shall require the affirmative vote of a majority of the members of the authority present.

(D) The local licensing authority shall have the authority to promulgate and employ reasonable regulations associated with the making and processing of applications for local licenses. The local licensing authority also may promulgate regulations concerning the processes and procedures associated with the issuance, renewal, denial, suspension, or revocation of such licenses that supplement and are not inconsistent with the provisions of this subchapter. Such regulations shall be adopted by resolution. (Ord. 03-2010, passed 12-13-2010)

**§ 112.005 APPLICATION FOR LICENSE.**

(A) Persons seeking to operate a medical marijuana operation within the Town shall file an application with the Town Clerk on a form available at the Town Hall during normal business hours.

(B) An application for a local license shall, at a minimum, include the following information:

(1) The applicant's name, mailing address, telephone number, date of birth, and Social Security or tax identification number;

(2) The street address of the proposed medical marijuana operation, which such information shall be subject to the confidentiality requirements set forth in Colorado Marijuana Code regarding the location of an optional premises cultivation operation;

(3) Proof of ownership or legal possession, such as a deed or lease, of the proposed location of the medical marijuana operation for the term of the proposed license. If the premises will be leased rather than owned by the applicant, the written consent of the owner of the property to the licensing of the premises as a medical marijuana operation must be submitted to the Town Clerk as part of a complete application. A fully-executed lease may satisfy this requirement if it clearly indicates that the owner knows the leased premises will be used as a medical marijuana operation;

(4) A floor plan showing all interior dimensions of the proposed premises and the layout of the medical marijuana operation. The floor plan also shall show the principal uses of the floor area including a depiction of where any services other than the dispensing of medical marijuana are proposed to occur on the licensed premises;

(5) A security plan indicating how the applicant intends to comply with the requirements of § 112.007(G) and any information regarding security required for a licensed premises under the State's Marijuana Code;

(6) An area map, drawn to scale, with a radius of one-quarter mile from the boundaries of the proposed licensed premises, showing the proximity of the licensed premises to any school, licensed child care facility, or the principal campus of any college, university, or seminary;

(7) If the applicant is not a natural person (i.e., a corporation, limited liability company, or partnership), a list of the names, addresses, dates of birth, and Social Security numbers of all officers, directors, managers, partners, and any person holding a 10% or greater ownership interest in the entity, as applicable;

(8) If the applicant is not a natural person, a copy of any article of incorporation or articles of organization and any shareholder/operating/partnership agreement;

(9) The names, addresses, dates of birth, and Social Security numbers of any on-site managers of the medical marijuana operation;

(10) If known at the time of application, the names, addresses, dates of birth, and Social Security numbers of any employees of the medical marijuana operation;

(11) A complete set of the fingerprints of the applicant, on-site managers, officers, directors, partners, managers, and any person holding a 10% or greater ownership interest in the entity;

(12) For optional premises cultivation operations, a description of the lighting plan, ventilation system for the premises, the estimated number of plants that will be grown, and an estimate of the number of plants within a given stage of grown within any given time;

(13) A plan for the keeping of product accountability records; and

(14) An indication as to which type of license(s) is being sought.

(C) An application for a local license shall be accompanied by the application fee and licensing fee as required by § 122.013. No application shall be deemed complete or shall be processed until such fees are paid.

(D) A criminal background check through the State's Bureau of Investigation shall be completed for each person subject to a criminal background check under the provisions of the State's Marijuana Code. The applicant shall pay all costs of such background checks and shall submit the results of the criminal background check to the Town Clerk with the application for license. The Town may inquire or confer with any law enforcement agency about the criminal background check.

(E) In accordance with Colorado Marijuana Code, any applicant who is a natural person shall be required to provide proof of lawful presence in the United States by producing one of the documents set forth in Colorado Marijuana Code and by executing an affidavit of legal presence in the United States.

(F) The Town Clerk and/or his or her designee shall perform an inspection of the proposed premises to ensure compliance with any applicable requirement of this subchapter.

(G) Applications submitted pursuant to this section shall be processed in the order in which they are received. The Town Clerk shall refuse any application that is not complete.

(Ord. 03-2010, passed 12-13-2010)

**§ 112.006 PERSONS PROHIBITED AS LICENSEES AND MANAGERS.**

No medical marijuana operation shall be owned, operated, or managed by:

(A) A person who would not qualify for a license pursuant to the minimum licensing requirements set forth in Part 3 of the State’s Marijuana Code;

(B) A natural person whose criminal history indicates that he or she is not of good moral character;

(C) A corporation, if the criminal history of any of its officers, directors, or stockholders holding 10% or more of the outstanding and issued capital stock of the corporation indicates he or she is not of good moral character;

(D) A partnership, association, limited liability company, or company, if the criminal history of any of its managers or officers or person holding 10% or more of the interest in such entity indicates he or she is not of good moral character;

(E) Any person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates he or she is not of good moral character; or

(F) For the purposes of this section, the term good moral character shall have the same meaning as that term is defined and construed under the State’s Marijuana Code, and any applicable regulation and case law. In determining whether any person is of good moral character, the local licensing authority shall be governed by the provisions of C.R.S. § 24-5-101. If the local licensing authority takes into consideration information concerning a person’s criminal history record, it shall also consider any information provided by the person regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the person’s last criminal conviction and the consideration of the application for a license.

(Ord. 03-2010, passed 12-13-2010)

**§ 112.007 LICENSING RESTRICTIONS AND REQUIREMENTS.**

(A) *Permitted locations for sales.* All medical marijuana operations shall be located only within the Commercial (C1) zoned areas located within the Town. It shall be unlawful to cause or permit the operation, establishment, or maintenance of a medical marijuana operation outside of these areas.

(B) *No home occupations.* No medical marijuana operation shall be operated as a home occupation.

(C) *Distance restrictions.*

(1) No medical marijuana operation shall be established, operated, or maintained within 500 feet of any licensed child care facility.

(2) No medical marijuana operation shall be established, operated, or maintained within 500 feet of any school or the principal campus of a college, university, or seminary.

(3) The distance restrictions set forth in this section shall not affect the renewal of a license once granted.

(4) Any distance specified in this division (C) shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each facility to the nearest property line of the premises in question.

(D) *Residential and lodging uses prohibited.* No medical marijuana operation shall be located in a premises containing residential units, a hotel, motel, or boarding, lodging, or rooming facility. No medical marijuana operation shall at any time be used for temporary or long-term residence, boarding, lodging, or rooming. Nothing in this division (D), however, shall prohibit 24-hour occupation of the medical marijuana operation by an employee or agent of the licensee for security purposes.

(E) *Other uses prohibited.* No medical marijuana operation shall be located in a premises occupied by any other business.

(F) *No mobile facilities.* Each medical marijuana operation shall be operated from a permanent location. No medical marijuana operation shall be located in a movable or mobile vehicle or structure, and no medical marijuana product shall be delivered in the Town unless such delivery is by a medical marijuana operation licensed by the Town, and such delivery is specifically permitted by the State's Marijuana Code. No delivery from any medical marijuana operation located outside the Town shall be made to any patient or primary caregiver within the Town.

(G) *Security measures.* Each licensed medical marijuana operation shall be monitored and secured 24-hours per day, seven days per week, including, at a minimum, the following security measures.

(1) Installation and use of security cameras of sufficient quality to produce useable images with identifiable features, to monitor all areas of the licensed premises where persons may gain or attempt to gain access to marijuana or cash maintained by the medical marijuana operation. Recordings from security cameras shall be maintained for a minimum of 72 hours in a secure off-site location, and for such longer periods as are requested in writing by any peace officer performing law enforcement duties and functions within the Town. The failure of such security system to capture and preserve images and activities at a licensed marijuana operation may be grounds for denial, revocation, or suspension of a local license.

(2) Installation and use of a locking safe permanently affixed to the premises for overnight storage of the entire saleable inventory of marijuana and cash on the licensed premises. The safe shall be affixed to the premises by mounting it into a concrete floor or wall. If the building does not include a concrete floor or wall, the safe shall be mounted into the foundation or sound support structure so as to prevent easy removal of safe from the premises. The mounting of a safe only into lath/plaster walls or drywall is prohibited.

(3) Installation of a robbery and burglary alarm system that is professionally monitored, maintained in good working condition, and provides for direct notification of activation to the County Sheriff's communication center. At a minimum, the alarm system must detect glass breakage, window position changes, door position changes, motion inside the building, attempt to access, or successful access of safes containing product or cash and rooms dedicated to growing or maintaining plants.

(4) Exterior lighting that illuminates all the exterior walls and doors of the business during all hours of darkness. Motion detection lighting shall be acceptable.

(5) Each medical marijuana operation also shall conform to any safety and security requirements set forth in the State's Marijuana Code and any applicable regulations.

(H) *Ventilation system.* Every medical marijuana operation where marijuana plants are cultivated or kept in an enclosed environment shall have a ventilation system approved by the Town.

(I) *No products to be visible from public places.* Marijuana plants, products, accessories, and associated paraphernalia contained in a medical marijuana operation shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.

(J) *Limitation on the sale of marijuana.* No marijuana may be sold, given away, or transferred at a medical marijuana operation except to patients and to primary caregivers.

(K) *On-site consumption.* The consumption of marijuana on or within the premises of a medical marijuana operation is prohibited, and it is unlawful for a person with a local license to allow marijuana to be consumed on the premises of the medical marijuana operation.

(L) *No beer or alcohol on premises.* No fermented malt beverages and no alcohol beverages, as defined in the State's Beer Code and the State's Liquor Code, shall be kept, served, or consumed on the premises of a medical marijuana operation.

(M) *Age restrictions.* No person under the age of 18 shall be allowed on the premises of a medical marijuana operation unless such person is accompanied by a parent, legal guardian, or legal custodian.

(N) *Paraphernalia.* Devices, contrivances, instruments, and paraphernalia for inhaling or otherwise using medical marijuana, including, but not limited to, rolling papers, water pipes, and vaporizers, may lawfully be sold at a medical marijuana operation. Such items may be sold or provided to patients or primary caregivers only.

(O) *Hours of operation.* A medical marijuana operation may open no earlier than 6:00 a.m. and may close no later than 10:00 p.m. the same day. A medical marijuana operation may be open seven days a week.

(P) *Manager.* No medical marijuana operation shall be managed by any person other than the owner or the manager listed on the application for the license.

(Q) *Posting of owner contact information.* The name and contact information for the owner or owners and any manager of the medical marijuana operation shall be conspicuously posted on the premises, together with the name and contact information of any person designated by the owner to be contacted in the event of an emergency.

(R) *Restrictions regarding signage.* The following requirements regarding signage shall apply to all medical marijuana operations.

(1) All signage associated with a medical marijuana operation shall comply with Town ordinances.

(2) In addition, no sign associated with a medical marijuana operation shall use the word “marijuana”, “cannabis”, or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word “medical” or the message of such sign includes the words “for medical use” or “for medicinal purposes” in letters that are no smaller than the largest letter on the sign.

(S) *Required warnings to be posted.* There shall be posted in a conspicuous location within the medical marijuana operation a clearly legible sign or signs containing the following warnings:

(1) A warning that the diversion of marijuana for non-medical purposes is a violation of State law;

(2) A warning that the use of medical marijuana may impair a person’s ability to drive a motor vehicle or operate machinery, and that it is illegal under State law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;

(3) A warning that possession and distribution of marijuana is a violation of federal law; and

(4) A warning that the consumption of medical marijuana, beer, or alcohol on or within the premises of the medical marijuana operation is prohibited.

(T) *Taxation.* Each licensee shall collect and remit all applicable sales tax on all medical marijuana, paraphernalia, and tangible personal property sold at the medical marijuana operation.  
(Ord. 03-2010, passed 12-13-2010)

## § 112.008 LICENSING PROCEDURES.

(A) *Local licensing authority review.* Upon receipt of a complete application for a medical marijuana operation license, the Town Clerk shall refer the application to the local licensing authority for review at a regular or special meeting of the Board of Trustees to be held not less than 30 days after the receipt of a complete application. The local licensing authority may schedule a public hearing on the application. If the local licensing authority elects to hold such a hearing, the Town Clerk shall post and publish notice thereof not less than ten days prior to the scheduled date of the hearing and shall carry out all other

public notice requirements as proscribed by C.R.S. § 12-43.3-302. The applicant shall be required to pay the costs of publishing and posting the notice. Notwithstanding any provisions to the contrary herein, any hearing conducted in response to an application to approve a local license shall comply with the confidentiality requirements of C.R.S. § 12-43.3-310(14) regarding the location of an optional premises cultivation operation.

(B) *Standards for issuance or denial of license.*

(1) No local license shall be issued unless:

(a) All applicable requirements of the State’s Marijuana Code have been satisfied;

(b) All applicable requirements of this subchapter and other Town ordinances and regulations have been satisfied;

(c) The required license fees and associated costs have been paid;

(d) The criminal history of any person listed in § 112.006(B) through (E) indicates that he or she is of good moral character;

(e) The applicant is not in arrears in any administrative or court fines, assessments, sales tax reporting or payment obligations, or fees, owed to the Town, and has no outstanding warrants for his or her arrest in any jurisdiction; and

(f) No fraudulent, misrepresented, or false statement of material or relevant fact is contained within the application.

(2) Before entering a decision approving or denying an application for a local license, the local licensing authority may consider the facts and evidence adduced as a result of its investigation, as well as any other fact pertinent to the type of license for which application has been made, including the number, type, and availability of medical marijuana operations in or near the premises under consideration, and any other matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

(3) The local licensing authority may refuse to issue a license for good cause.

(C) *Authority to impose conditions on license.* The local licensing authority shall have the authority to impose reasonable terms and conditions on a license as may be necessary to protect the public health, safety, and welfare, and to ensure compliance with the requirements of this subchapter and applicable law.

(D) *Concurrent review.* Either the local licensing authority or an applicant with local licensing authority approval may request that the State licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application. In such cases, the local licensing authority will continue to independently review the applicant's license application.

(E) *Final determination.* Not less than 30 days after any public hearing or meeting at which the application is considered, the local licensing authority shall issue its decision approving or denying any application for a local license. The decision shall be in writing and shall state the reasons for the decision. A copy of the decision shall be sent by certified mail to the applicant at the address on the application. Any decision approving an application for a local license shall be conditioned on an applicant's receipt of a State license from the State licensing authority.

(F) *Pre-issuance inspection.* After approval of an application, no local license shall be issued until the premises upon which the business is to be operated is ready for occupancy and that such furniture, fixtures, and equipment are in place. The Town Clerk and/or his or her designee shall inspect the premises to determine that the applicant has complied with the floor plan for the interior of the building submitted with the application.

(G) *Issuance of license.* Upon approval of an application and completion of the inspection required by division (F) above, the Town Clerk shall issue the proper local license to the applicant. The license shall be signed by the Mayor and the Town Clerk and shall include the seal of the Town.

(H) *State notification.* Upon approval of an application for a local license, the local licensing authority shall notify the State licensing authority of such action, following which the State licensing authority shall investigate and either approve or disapprove the application for a State license. If the application for a State license is denied, any approval for a local license shall be considered null and void unless and until the State application is remedied and approved.

(I) *Posting.* Every license issued pursuant to this subchapter shall be posted during the period such license is valid. Such license shall be posted upon the wall of the principal room or office of the premises. When such license expires, it shall be removed.

(Ord. 03-2010, passed 12-13-2010)

#### **§ 112.009 DUTIES OF LICENSEE.**

It is the duty and obligation of each licensee to do the following:

(A) Comply with all of the terms and conditions of the local and State license;

(B) Comply with all of the requirements of this subchapter and with all other applicable Town ordinances;

(C) Comply with Amendment 20, the State’s Marijuana Code, and all State laws and administrative regulations pertaining to the medical use of marijuana; and

(D) Permit inspection of its records and operation by an authorized Town representative for the purpose of determining the licensee’s compliance with the terms and conditions of the local license. (Ord. 03-2010, passed 12-13-2010)

**§ 112.010 LICENSE DURATION; RENEWAL.**

(A) Each local license shall be valid for one year from the date of issuance and may be renewed as provided in this section.

(B) An application for renewal of an existing local license shall be made to the Town Clerk on a form provided by the Town Clerk not less than 45 days prior to the date of expiration. No application for renewal shall be accepted less than 45 days prior to the license expiration date unless good cause is demonstrated to the satisfaction of the Town Clerk. No application for renewal shall be accepted after the date of expiration unless the applicant pays a non-refundable late application fee in the amount of \$500 at the time the renewal application is submitted, but in no event shall an application for renewal be accepted if the local license had been expired for more than 90 days.

(C) Every application for renewal shall be accompanied by a renewal fee as provided in § 122.013.

(D) Every complete application for renewal shall be referred to the local licensing authority for its review at a regular or special meeting of the Board of Trustees. No public hearing shall be required unless the licensee has had complaints filed against it, has a history of violations, or there are allegations against the licensee that would constitute good cause. If a public hearing is conducted, the Town Clerk shall post and publish notice thereof not less than ten days prior to the scheduled date of the hearing and shall carry out all other public notice requirements as proscribed by Colorado Marijuana Code. The applicant shall be required to pay the costs of publishing and posting notice. Notwithstanding any provision to the contrary herein, any hearing conducted in response to an application to approve a medical marijuana operation license shall comply with the confidentiality requirements of Colorado Marijuana Code regarding the location of an optional premises cultivation operation. The local licensing authority may refuse to renew any local license for good cause.

(E) The timely filing of a renewal application shall extend the current license until a final decision is made on the renewal application. (Ord. 03-2010, passed 12-13-2010)

**§ 112.011 TRANSFER; CHANGE OF LOCATION; MODIFICATION OF PREMISES.**

(A) No local license shall be transferred to another owner unless the requirements of § 112.005 concerning new local licenses are met. The local licensing authority shall review and act on the

application as if the application was for a new license except with respect to the distance restrictions set forth in § 112.007(C).

(B) Any proposed change of location for a local license shall not occur unless approved by the local licensing authority taking into consideration all the requirements of the State's Marijuana Code and this subchapter. If the proposed change of location is denied, the local licensing authority shall give the licensee notice in writing and shall state the grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the local licensing authority within 15 days after the date of notice.

(C) After a local license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local licensing authority.

(1) For purposes of this section, physical changes, alterations, or modifications of the licensed premises, or in the usage of the premises requiring prior written consent, shall include, but not be limited to, the following:

(a) Any increase or decrease in the total size or capacity of the licensed premises;

(b) The sealing off, creation of, or relocation of a common entryway, doorway, passage, or other such means of public ingress and/or egress, when such common entryway, doorway, or passage alters or changes the sale, distribution, storage, or cultivation of medical marijuana within the licensed premises; and

(c) Any material change in the exterior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application.

(2) The foregoing shall not apply to painting and redecorating of premises, the installation or replacement of electric fixtures or equipment, the lowering of ceiling, the installation and replacement of floor coverings, the replacement of furniture and equipment, and other similar changes, nor to any nonstructural remodeling of a licensee's premises where the remodel does not expand the existing area designed for the display or sale of medical marijuana.

(3) In making its decision with respect to any proposed changes, alterations, or modifications, the local licensing authority shall consider whether the premises, as changed, altered, or modified, will meet all of the pertinent requirements of the State's Marijuana Code and this subchapter.

(4) If permission to change, alter, or modify the licensed premises is denied, the local licensing authority shall give the licensee notice in writing and shall state the grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the local licensing authority within 15 days after the date of notice.

(Ord. 03-2010, passed 12-13-2010)

**§ 112.012 SUSPENSION OR REVOCATION; FINE IN LIEU.**

(A) The local licensing authority may, on its own motion or on complaint, and after investigation and opportunity for a public hearing at which the licensee shall be afforded an opportunity to be heard, suspend, or revoke any license previously issued for any of the following reasons:

(1) The licensee has failed to pay the annual license fee;

(2) The licensee has made a material falsehood or misrepresentation in the application for a license;

(3) The licensee or any of its agents or employees have violated any of the provisions of this subchapter, the State's Marijuana Code, any rule or regulation promulgated pursuant to the State's Marijuana Code or this subchapter, or any of the terms, conditions, or provisions of the local license;

(4) The licensee or any of its agents or employees have violated any ordinance of the Town or any State law on the premises or have permitted such a violation on the premises by any other person;

(5) Operations have ceased at the medical marijuana operation for more than 90 days, including during a change of ownership of the business; or

(6) Ownership of the medical marijuana operation has been transferred without the new owner obtaining a license pursuant to this subchapter.

(B) The local licensing authority has 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 a hearing.

(C) No suspension shall be for a period longer than six months. Notice of suspension or revocation, as well as any required notice of a public hearing, shall be given by mailing the same in writing to the licensee at the licensee's last address of record with the Town Clerk.

(D) In the connection with the suspension of a local license, the local licensing authority may impose reasonable conditions or sanctions.

(E) In deciding whether a local license should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the local licensing authority shall consider the nature and seriousness of the violation, corrective action, if any, taken by the licensee, prior violation(s), if any, by the licensee, the likelihood of recurrence, all circumstances surrounding the violation, whether the violation was willful, and previous sanctions, if any, imposed against the licensee.

(F) No fee previously paid by a licensee in connection with the local license shall be refunded if such license is suspended or revoked.

(G) Whenever a decision of the local licensing authority suspending a license or permit for 14 days or less becomes final, the licensee may, before the operative date of the suspension, petition the local licensing authority for permission to pay a fine in lieu of the suspension for all or part of the suspension period. Upon receipt of such a petition, the local licensing authority may cause any investigation to be made which it deems desirable. The authority may, in its sole discretion, grant the petition if it is satisfied and makes findings that:

(1) The public welfare and morals would not be impaired by permitting the licensee to operate during all or a portion of the period set for suspension and that payment of the fine will achieve the desired disciplinary purposes;

(2) The books and records of the licensee are kept in such a manner that the loss of sales of medical marijuana which the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy; and

(3) The licensee has not had its license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two years immediately preceding the date of the complaint which resulted in the final decision to suspend the license.

(H) In no event shall the fine be less than \$500 or more than \$100,000. Payment of any fine authorized by the terms of this section shall be made by the licensee in the form of cash, certified check, or cashier check made payable to the Town, and shall be credited to the General Fund.

(I) Upon receipt of the fine from the licensee in the form of payment specified in division (H) above, the local licensing authority shall enter an order permanently staying the entire period of the suspension or that period which is not otherwise conditionally stayed.

(J) If the local licensing authority does not make the findings required in division (G) above, the licensee fails within the time specified by the local licensing authority to pay the fine imposed pursuant to this section, or the licensee tenders payment of the fine in a form other than as authorized in division (H) above, the suspension shall go into effect on the operative date finally set by the local licensing authority.

(Ord. 03-2010, passed 12-13-2010)

### **§ 112.013 APPLICATION AND LICENSE FEES.**

Application fees and license fees for medical marijuana operations shall be established by the Board of Trustees by resolution. The license fee shall be refunded if the application is denied, but the application fee and all other fees shall be non-refundable.

(Ord. 03-2010, passed 12-13-2010)

**§ 112.014 RIGHT OF ENTRY.**

(A) The application for a local license shall constitute the consent of the licensee and the licensee's agents or employees to permit the Town Clerk, any other authorized agent of the Town, or any law enforcement agency providing law enforcement services within the Town to conduct routine inspections to ensure compliance with this subchapter.

(B) If the medical marijuana operation premises is occupied, the Town Clerk, authorized agent, or officer shall first present proper credentials and request entry. If the medical marijuana operation premises is unoccupied, the Town Clerk, authorized agent, or officer shall first make a reasonable effort to locate the licensee or the licensee's agents or employees and request entry. If the request for entry is refused or if the licensee cannot be located after a reasonable effort, the Town Clerk, authorized agent, or officer may apply to the Municipal Court for a search warrant for inspection of the medical marijuana operation in accordance with Rule 241 of the State's Municipal Court Rules of Procedure or to the county or district court, as applicable.

(C) When the Town Clerk, authorized agent, or officer obtains a search warrant or other remedy by law to secure entry, no licensee or occupant of the medical marijuana operation shall fail or neglect, after proper request is made, to promptly permit entry by the Town Clerk, authorized agent, or officer for the purpose of inspection pursuant to this section.

(Ord. 03-2010, passed 12-13-2010)

**§ 112.015 NO WAIVER OF GOVERNMENTAL IMMUNITY.**

In adopting this subchapter, the Board of Trustees is relying on, and does not waive or intend to waive by any provision of this subchapter, the monetary limitations or any other right, immunity, or protection provided by the State's Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers, or its employees or agents.

(Ord. 03-2010, passed 12-13-2010)

**§ 112.016 NO TOWN LIABILITY.**

By accepting a license issued pursuant to this subchapter, a licensee releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of medical marijuana operation owners, operators, employees, clients, or customers for a violation of State or federal laws, rules, or regulations. The Town Clerk may require a licensee to execute a written instrument confirming the provisions of this section.

(Ord. 03-2010, passed 12-13-2010)

**§ 112.017 INDEMNIFICATION OF TOWN.**

By accepting a license issued pursuant to this subchapter, a licensee, jointly and severally if more than one, agrees to indemnify and defend the Town, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any land whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana operation that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney's fees. The Town Clerk may require a licensee to execute a written instrument confirming the provisions of this section.  
(Ord. 03-2010, passed 12-13-2010)

**§ 112.018 PENALTY.**

(A) Any person violating any provision of this subchapter may be punished as provided in § 11.02 of this Code.

(B) The operation of a medical marijuana operation in violation of the terms of this subchapter may be enjoined by the Town in an action brought in a court of competent jurisdiction.

(C) The operation of a medical marijuana operation in violation of the terms of this subchapter is determined to constitute a public nuisance and may be abated by the Town as a nuisance in accordance with Town ordinances.

(D) The remedies set forth in this section shall not be exclusive, but shall be cumulative and shall be in addition to any other remedy available at law or in equity.

(E) Upon conviction, the Town may pursue court costs in the prosecution of the case as allowed under applicable law.  
(Ord. 03-2010, passed 12-13-2010; Ord. 01-2023, passed 3-13-2023)

***RETAIL MARIJUANA ESTABLISHMENTS***

**§ 112.030 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless otherwise defined in this section or the context clearly indicates otherwise, any word or term used in this section that is defined in Amendment 64 or in the State’s Marijuana Code shall have the same meaning that is ascribed to such word or term in Amendment 64 or in the Marijuana Code.

***AMENDMENT 64.*** The certain voter initiated amendment to the Colorado Constitution adopted November 6, 2012, which added § 16 of Article XVIII to the Colorado Constitution.

***APPLICANT.*** Any person seeking to obtain a local license for the purposes of operating a retail marijuana establishment within the jurisdictional limits of the Town.

***COLORADO MARIJUANA CODE.*** C.R.S. Title 44, Article 10, as amended from time to time.

***CULTIVATE* or *CULTIVATION.*** The process by which a person grows a marijuana plant.

***DIVISION.*** The Marijuana Enforcement Division.

***GOOD CAUSE.*** For the purposes of refusing or denying a license renewal or initial license issuance shall mean:

- (1) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the State’s Marijuana Code, this subchapter, or any other Town ordinance, local law, rule, or regulation;
- (2) The licensee or applicant has failed to comply with any special term or condition that was placed on its license by the State licensing authority or local licensing authority; or
- (3) The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the retail marijuana establishment is located.

***LICENSEE.*** A person licensed to operate a retail marijuana establishment pursuant to this subchapter.

***LOCAL LICENSE.*** The license issued by the Town pursuant to the provisions of this subchapter authorizing a person to commence, establish, and operate a retail marijuana establishment within the Town.

**MARIJUANA.** All parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. **MARIJUANA** does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

**MARIJUANA ACCESSORIES.** Any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

**PERSON.** A natural person, partnership, association, company, corporation, limited liability company, or organization; except that person does not include any governmental organization.

**PREMISES.** A distinctly identified, as required by the State licensing authority, and definite location, which may include a building, a part of a building, or any other definite contiguous area.

**RETAIL MARIJUANA.** Marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

**RETAIL MARIJUANA CULTIVATION FACILITY.** An entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, but not to consumers.

**RETAIL MARIJUANA ESTABLISHMENT.** A retail marijuana cultivation facility, a retail marijuana products manufacturing facility, a retail marijuana testing facility, or a retail marijuana store.

**RETAIL MARIJUANA PRODUCTS MANUFACTURING FACILITY.** An entity licensed to purchase retail marijuana; manufacture, prepare, and package retail marijuana products; and sell marijuana and retail marijuana products to other retail marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

**RETAIL MARIJUANA TESTING FACILITY.** An entity licensed to analyze and certify the safety and potency of retail marijuana.

**RETAIL MARIJUANA PRODUCTS.** 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, and that are produced at a retail marijuana products manufacturing facility.

**RETAIL MARIJUANA STORE.** An entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

**SCHOOL.** A public or private preschool or a public or private elementary, middle, junior high, or high school.

**STATE LICENSING AUTHORITY.** The authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, testing, and advertising of retail marijuana in this State, pursuant to Colorado Marijuana Code.

**TOWN CLERK.** The Town Clerk of Sedgwick or such person's designee.  
(Ord. 02-2016, passed 10-11-2016)

**§ 112.031 LICENSE REQUIRED.**

(A) No person shall commence, operate, or establish a retail marijuana establishment without obtaining both State and local licenses, the latter of which shall be issued by the local licensing authority consistent with the terms of this subchapter and shall be renewed on an annual basis.

(B) The licensing requirements set forth in this section shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by the State's Marijuana Code and any other federal, State, or local law. For example, a retail marijuana establishment also must obtain State retail sales tax licenses and must comply with applicable building code and permit requirements.  
(Ord. 02-2016, passed 10-11-2016)

**§ 112.032 TYPES AND NUMBERS OF LICENSES.**

The Town shall issue the following types of local licenses.

(A) *Retail marijuana cultivation facility license.* A retail marijuana cultivation facility license may be issued to a person who cultivates retail marijuana for sale and distribution to licensed retail marijuana stores, retail marijuana products manufacturing licensees, or other retail marijuana cultivation facilities pursuant to the terms and conditions of this subchapter, Colorado Marijuana Code, and any related rules and regulations.

(B) *Retail marijuana store license.* A retail marijuana store license may be issued to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this subchapter, Colorado Marijuana Code, and any related rules and regulations.

(C) *Retail marijuana products manufacturing license.* A retail marijuana products manufacturing license may be issued to a person who manufactures retail marijuana products pursuant to the terms and conditions of this subchapter, Colorado Marijuana Code, and any related rules and regulations.

(D) *Retail marijuana testing facility license.* A retail marijuana testing facility license may be issued to a person who performs testing and research on retail marijuana and industrial hemp as regulated by Colorado Marijuana Code and any related rules and regulations.

(E) *Cap on numbers of licenses issued.* There shall be no more than three licensed retail marijuana stores operating within the Town.

(F) *Issuance of additional licenses.*

(1) Within 15 days of the effective date of the ordinance codified herein, the Town Clerk shall publish a notice that the Town is accepting applications for retail marijuana store licenses. Such notice shall include a deadline for the Town's acceptance of such applications and shall require that applications be submitted in person at Town Hall Monday through Thursday from 8:00 a.m. to 3:00 p.m. (holidays excepted).

(2) The Town Clerk shall initially review such applications for completeness. In the event the Town Clerk finds that an application is incomplete, the Town Clerk shall notify the applicant in writing of the application deficiencies and allow the applicant to correct such deficiencies within 15 days from the date of receiving such notice.

(3) The Town Clerk shall then forward the applications to the local licensing authority for further processing and review at a public meeting. During such public meeting, the local licensing authority shall then finally determine the sufficiency of the license applications and whether the applicant is eligible to hold a retail marijuana store license pursuant to the Town's ordinances and State laws and regulations.

(4) If after reviewing the license applications for eligibility, the local licensing authority determines it has received more eligible retail marijuana store applications than licenses available pursuant to division (E) above, the local licensing authority shall establish a date and time for selecting by lot the priority by which applications shall be acted on.

(Ord. 02-2016, passed 10-11-2016; Ord. 10-2019, passed 9-11-2019)

### **§ 112.033 LOCAL LICENSING AUTHORITY.**

(A) For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of retail marijuana in the Town, there is hereby created the local licensing authority of the Town, which shall be the Board of Trustees unless and until it delegates its authority vested herein to some other entity by resolution.

(B) The local licensing authority shall have such powers and duties as are provided for in this subchapter and in the State's Marijuana Code.

(C) Any action taken by the local licensing authority shall require the affirmative vote of a majority of the members of the authority present.

(D) The local licensing authority shall have the authority to promulgate and employ reasonable regulations associated with the making and processing of applications for local licenses. The local licensing authority also may promulgate regulations concerning the processes and procedures associated with the issuance, renewal, denial, suspension, or revocation of such licenses that supplement and are not inconsistent with the provisions of this subchapter. Such regulations shall be adopted by resolution. (Ord. 02-2016, passed 10-11-2016)

**§ 112.034 SCREENING AND RESPONSE TO STATE LICENSE APPLICATIONS.**

Upon receipt of an application from the State licensing authority for a retail marijuana license, the Town Clerk shall:

(A) Initially determine, in consultation with Town staff, whether or not the proposed location complies with any and all zoning and land use laws of the Town and any and all restrictions on locations and types of retail marijuana establishments permitted within the Town as set forth in this subchapter. If the Town Clerk makes an initial determination that the proposed license would be in violation of any zoning law or other restriction set forth in this subchapter, the Town Clerk shall notify the State licensing authority in writing that the application is disapproved by the Town. The failure of the Town Clerk to make such a determination upon the initial review of a State license application shall not preclude the local licensing authority or the Town Clerk from determining that the proposed license is in violation of any zoning law or other restriction set forth in this subchapter, and disapprove the issuance of a local license on this basis; and

(B) For any application that is not disapproved as provided in division (A) above, the Town Clerk shall notify the State licensing authority in writing that the Town’s further consideration of the application is subject to completion of the local licensing process described in this subchapter, after which the Town Clerk will notify the State licensing authority in writing of whether or not the retail marijuana license proposed in the application has or has not been approved by the local licensing authority. (Ord. 02-2016, passed 10-11-2016)

**§ 112.035 APPLICATION FOR LICENSE.**

(A) Applications for local licenses shall be made on forms provided by the Division and shall include all materials required by the State’s Marijuana Code and the rules and regulations adopted thereunder.

(B) The applicant shall also provide the following information to the Town; to the extent that any of the following information has been included with the applicant’s State license application and forwarded to the Town by the State licensing authority, the local licensing authority may rely upon the information forwarded from the State without requiring resubmittal of the same materials for the local license application:

(1) The applicant's name, mailing address, telephone number, date of birth, and Social Security or tax identification number;

(2) The street address of the proposed retail marijuana establishment;

(3) Proof of ownership or legal possession, such as a deed or lease, of the proposed location of the retail marijuana establishment for the term of the proposed license. If the premises will be leased rather than owned by the applicant, the written consent of the owner of the property to the licensing of the premises as a retail marijuana establishment must be submitted to the Town Clerk as part of a complete application. A fully-executed lease may satisfy this requirement if it clearly indicates that the owner knows the leased premises will be used as a retail marijuana establishment. The Town will not accept a letter of intent, real estate contract or lease contingent upon successful licensing or any similar contingent agreement to satisfy the requirement of this section. In addition, if the premises will be leased rather than owned by the applicant, the lease must have a term of at least five years;

(4) A floor plan showing all interior dimensions of the proposed premises and the layout of the retail marijuana establishment. The floor plan also shall show the principal uses of the floor area including a depiction of where any services other than the dispensing of retail marijuana are proposed to occur on the licensed premises;

(5) A security plan indicating how the applicant intends to comply with the requirements of § 112.037(G) and any information regarding security required for a licensed premises under the State's Marijuana Code;

(6) An area map, drawn to scale, with a radius of one-quarter mile from the boundaries of the proposed licensed premises, showing the proximity of the licensed premises to: any school, licensed child care facility, or the principal campus of any college, university, or seminary;

(7) If the applicant is not a natural person (i.e., a corporation, limited liability company, or partnership), a list of the names, addresses, dates of birth and Social Security numbers of all officers, directors, managers, partners, and any person holding a 10% or greater ownership interest in the entity, as applicable;

(8) If the applicant is not a natural person, a copy of any article of incorporation or articles of organization and any shareholder/operating/partnership agreement;

(9) The names, addresses, dates of birth, and Social Security numbers of any on-site managers of the retail marijuana establishment;

(10) If known at the time of application, the names, addresses, dates of birth, and Social Security numbers of any employees of the retail marijuana establishment;

(11) For retail marijuana cultivation facilities, a description of the lighting plan, ventilation system for the premises, the estimated number of plants that will be grown, and an estimate of the number of plants within a given stage of growth within any given time;

(12) A plan for the keeping of product accountability records;

(13) An indication as to which type of license(s) is being sought; and

(14) A parking plan approved by the Town that demonstrates that well maintained, clearly marked, and adequate parking for customers will be provided.

(C) An application for a local license shall be accompanied by the application fee and licensing fee as required by § 112.044. No application shall be deemed complete or shall be processed until such fees are paid.

(D) A criminal background check through the State's Bureau of Investigation shall be completed for each person subject to a criminal background check under the provisions of the State's Marijuana Code. The applicant shall pay all costs of such background checks and shall submit the results of the criminal background check to the Town Clerk with the application for license. The Town may inquire or confer with any law enforcement agency about the criminal background check. The Town shall not be required to perform a criminal background check if the State licensing authority has already performed a criminal background check or may, in its sole discretion, perform its own background check.

(E) In accordance with C.R.S. §§ 24-76.5-101 et seq., any applicant who is a natural person shall be required to provide proof of lawful presence in the United States by producing one of the documents set forth in C.R.S. § 24-76.5-103(4) and by executing an affidavit of legal presence in the United States.

(F) The Town Clerk or his or her designee shall perform an inspection of the proposed premises to ensure compliance with any applicable requirements of this section. The Town Clerk or his or her designee shall also investigate whether the applicant (or any of its partners, members, managers, officers, stockholders, or directors) have ever been denied a marijuana license, had a marijuana license suspended or revoked, or have ever held an interest in another entity that had a marijuana license suspended or revoked. Such investigation may include contacting the Marijuana Enforcement Division or any municipality in which such businesses operated.

(G) Except as provided in division (F) above, applications submitted pursuant to this section shall be processed in the order in which they are received. The Town Clerk shall refuse any application that is not complete.

(H) The applicant shall submit a complete application for a retail marijuana business license to the State licensing authority no later than 30 days after the local license has been approved (if such application has not already been submitted to the State). If the applicant fails to submit its application to the State licensing authority within said time frame, then the local license shall become void and shall be automatically revoked by the Town Clerk and the license and application fee will not be refunded. (Ord. 02-2016, passed 10-11-2016; Ord. 10-2019, passed 9-11-2019; Ord. 2-2020, passed 1-14-2020)

**§ 112.036 PERSONS PROHIBITED AS LICENSEES AND MANAGERS.**

(A) No retail marijuana establishment shall be owned, operated, or managed by:

(1) A person who would not qualify for a license pursuant to the minimum licensing requirements set forth in Part 3 of the State's Marijuana Code;

(2) A natural person whose criminal history indicates that he or she is not of good moral character;

(3) A person other than a natural person, if the criminal history of any of its officers, directors, stockholders, or owners indicates that they are not of good moral character;

(4) Any person financed in whole or in part by any other person whose criminal history indicates he or she is not of good moral character; and/or

(5) A person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals that the person is ineligible.

(B) For the purposes of this section, the term **GOOD MORAL CHARACTER** shall have the same meaning as that term is defined and construed under the State's Marijuana Code and any applicable regulation and case law. In determining whether any person is of good moral character, the local licensing authority shall be governed by the provisions of C.R.S. § 24-5-101(2). If the local licensing authority takes into consideration information concerning a person's criminal history record, it shall also consider any information provided by the person regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the person's last criminal conviction and the consideration of the application for a license. In making a determination as to good moral character, the local licensing authority may incorporate any findings as to good character and criminal history previously made by the State licensing authority or may, in its sole discretion, make its own findings.

(C) No retail marijuana store license shall be issued to any person or business that has been licensed to operate another retail marijuana store in the Town pursuant to this subchapter. For purposes of this division (C), business shall include any business that has common ownership with an existing retail marijuana store, regardless of percentage of ownership. In addition, any person who has a financial interest in an existing retail marijuana store in the Town shall not be eligible to apply for a retail marijuana store license either individually or as part of a business entity until at least six months has lapsed since the person divested himself or herself of such financial interest. Further, no retail marijuana store license shall be issued to an applicant who is financed, in whole or in part, by any person or entity who has a financial interest in an existing retail marijuana store in the Town.

(D) No retail marijuana store license shall be issued to an applicant unless the applicant has at least three years experience operating a licensed marijuana business in the State.

(Ord. 02-2016, passed 10-11-2016; Ord. 10-2019, passed 9-11-2019)

**§ 112.037 LICENSING RESTRICTIONS AND REQUIREMENTS.**

(A) *Permitted locations for sales.* All retail marijuana establishments shall be located only within the Commercial (C1) zoned areas located within the Town. It shall be unlawful to cause or permit the operation, establishment, or maintenance of a retail marijuana establishment outside of these areas.

(B) *No home occupations.* No retail marijuana establishments shall be operated as a home occupation.

(C) *Distance restrictions.*

(1) No retail marijuana establishment shall be established, operated, or maintained within 500 feet of any licensed child care facility.

(2) No retail marijuana establishment shall be established, operated, or maintained within 500 feet of any school or the principal campus of a college, university, or seminary.

(3) The distance restrictions set forth in this section shall not affect the renewal of a license once granted.

(4) Any distance specified in this division (C) shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each facility to the nearest property line of the premises in question.

(D) *Residential and lodging uses prohibited.* No retail marijuana establishment shall be located in a premises containing residential units, a hotel, motel, or boarding, lodging, or rooming facility. No retail marijuana establishment shall at any time be used for temporary or long-term residence, boarding, lodging, or rooming. Nothing in this division (D), however, shall prohibit 24-hour occupation of the retail marijuana establishment by an employee or agent of the licensee for security purposes.

(E) *Other uses prohibited.* No retail marijuana establishment shall be located in a premises occupied by any other business.

(F) *No mobile facilities.* Each retail marijuana establishment shall be operated from a permanent location. No retail marijuana establishment shall be located in a movable or mobile vehicle or structure, and no retail marijuana product shall be delivered in the Town unless such delivery is by a retail marijuana establishment licensed by the Town, and such delivery is specifically permitted by the State’s Marijuana Code. No delivery from any retail marijuana establishment located outside the Town shall be made to any persons within the Town.

(G) *Security measures.* Each licensed retail marijuana establishment shall be monitored and secured 24-hours per day, seven days per week, including, at a minimum, the following security measures.

(1) Installation and use of security cameras of sufficient quality to produce useable images with identifiable features, to monitor all areas of the licensed premises where persons may gain or attempt to gain access to marijuana or cash maintained by the retail marijuana establishment. Recordings from security cameras shall be maintained for a minimum of 72 hours in a secure off-site location, and for such longer periods as are requested in writing by any peace officer performing law enforcement duties and functions within the Town. The failure of such security system to capture and preserve images and activities at a licensed marijuana establishment may be grounds for denial, revocation, or suspension of a local license.

(2) Installation and use of a locking safe permanently affixed to the premises for overnight storage of the entire saleable inventory of marijuana and cash on the licensed premises. The safe shall be affixed to the premises by mounting it into a concrete floor or wall. If the building does not include a concrete floor or wall, the safe shall be mounted into the foundation or sound support structure so as to prevent easy removal of safe from the premises. The mounting of a safe only into lath/plaster walls or drywall is prohibited.

(3) Installation of a robbery and burglary alarm system that is professionally monitored, maintained in good working condition, and provides for direct notification of activation to the County Sheriff's communication center. At a minimum, the alarm system must detect glass breakage, window position changes, door position changes, motion inside the building, attempt to access, or successful access of safes containing product or cash and rooms dedicated to growing or maintaining plants.

(4) Exterior lighting that illuminates all the exterior walls and doors of the business during all hours of darkness. Motion detection lighting shall be acceptable.

(5) Each retail marijuana establishment also shall conform to any safety and security requirements set forth in the State's Marijuana Code and any applicable regulations.

(H) *Ventilation system.* Every retail marijuana establishment where marijuana plants are cultivated or kept in an enclosed environment shall have a ventilation system approved by the Town.

(I) *No products to be visible from public places.* Marijuana plants, products, accessories, and associated paraphernalia contained in a retail marijuana establishment shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.

(J) *On-site consumption.* The consumption of marijuana on or within the premises of a retail marijuana establishment is prohibited, and it is unlawful for a person with a local license to allow marijuana to be consumed on the premises of the retail marijuana establishment.

(K) *No beer or alcohol on premises.* No fermented malt beverages and no alcohol beverages, as defined in the State's Beer Code and the State's Liquor Code shall be kept, served, or consumed on the premises of a retail marijuana establishment.

(L) *Age restrictions; identification.* It shall be unlawful to sell retail marijuana or retail marijuana products to a person under 21 years of age or to a person who does not present a government issued

identification at the time of purchase. No person under the age of 21 shall be allowed on the premises of a retail marijuana establishment unless such person is accompanied by a parent, legal guardian, or legal custodian.

(M) *Paraphernalia*. Retail marijuana accessories may be lawfully sold at a retail marijuana store.

(N) *Hours of operation*. A retail marijuana establishment may open no earlier than 8:00 a.m. and may close no later than 10:00 p.m. the same day. A retail marijuana establishment may be open seven days a week.

(O) *Manager*. No retail marijuana establishment shall be managed by any person other than the owner or the manager listed on the application for the license.

(P) *Posting of owner contact: information*. The name and contact information for the owner or owners and any manager of the retail marijuana establishment shall be conspicuously posted on the premises, together with the name and contact information of any person designated by the owner to be contacted in the event of an emergency.

(Q) *Restrictions regarding signage and advertising*. The following requirements regarding signage and advertising shall apply to all retail marijuana establishment operations.

(1) All signage associated with a retail marijuana establishment shall comply with Town ordinances, the State’s Marijuana Code, and related regulations.

(2) No retail marijuana establishment shall use any advertising material that is false, misleading, or deceptive.

(R) *Required warnings to be posted*. There shall be posted in a conspicuous location within the retail marijuana establishment a clearly legible sign or signs containing the following warnings:

(1) A warning that the use of retail marijuana may impair a person’s ability to drive a motor vehicle or operate machinery, and that it is illegal under State law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;

(2) A warning that possession and distribution of marijuana is a violation of federal law; and

(3) A warning that the consumption of retail marijuana, beer, or alcohol on or within the premises of the retail marijuana establishment is prohibited.

(S) *Taxation*. Each licensee shall collect and remit all applicable sales tax on all retail marijuana, accessories, and tangible personal property sold at the retail marijuana establishment.

(T) *Other businesses*. It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution, or

consumption of retail marijuana other than those forms of businesses and commerce that are expressly permitted by Amendment 64, the State's Marijuana Code, and this code.

(U) *Size restrictions.* The maximum total area occupied by any one marijuana establishment shall not exceed 15,000 square feet.

(Ord. 02-2016, passed 10-11-2016)

#### **§ 112.038 CO-LOCATION OF MEDICAL MARIJUANA OPERATIONS AND RETAIL MARIJUANA ESTABLISHMENTS.**

Medical marijuana operations and retail marijuana establishments are subject to the following shared licensed premises and operational separation requirements.

(A) *Retail stores and medical centers: no patients under the age of 21 years.* A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case, the medical marijuana center licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the local and State licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and State licensing authorities and Town to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.

(B) *Retail stores and medical center: patients under the age of 21 years.* A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its licensed premises with a retail marijuana establishment. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

(C) *Cultivation operations.* An optional premises cultivation operation and a retail marijuana cultivation facility may operate a dual cultivation business operation on the same licensed premises if the two are commonly owned. Upon these circumstances and upon approval of the local and State licensing authorities, the optional premises cultivation, operation, and the retail marijuana cultivation facility shall maintain physical or virtual separation of the facilities, plants, and inventory. Record keeping for the business operations of both must allow the local and State licensing authorities and Town to clearly distinguish the inventories and business transactions of the optional premises cultivation operation and the retail marijuana cultivation facility.

(D) *Manufacturing operations.* A medical marijuana-infused products manufacturing business and a retail marijuana products manufacturing facility may operate a dual manufacturing business on the same licensed premises if the two are commonly owned. Upon these circumstances and upon approval of the local and State licensing authorities, the medical marijuana-infused products manufacturing business and

the retail marijuana products manufacturing facility shall maintain physical or virtual separation of the facilities, product ingredients, manufacturing, and inventory. Record keeping for the business operations of both must allow the local and State licensing authorities and Town to clearly distinguish the inventories and business transactions of the optional premises cultivation operation and the retail marijuana cultivation facility.

(E) *Compliance with all laws.* Co-located licensed operations shall be operated in accordance with all applicable State and local rules and regulations.  
(Ord. 02-2016, passed 10-11-2016)

**§ 112.039 LICENSING PROCEDURES.**

(A) *Local licensing authority review.* Upon receipt of a complete application for a retail marijuana establishment license from the State, the Town Clerk shall refer the application to the local licensing authority for review at a regular or special meeting of the Board of Trustees. The local licensing authority may schedule a public hearing on the application. If the local licensing authority elects to hold such a hearing, the Town Clerk shall post and publish notice thereof not less than ten days prior to the scheduled date of the hearing and shall carry out all other public notice requirements as proscribed by the State’s Marijuana Code. The applicant shall be required to pay the costs of publishing and posting the notice.

(B) *Standards for issuance or denial of license.*

(1) No local license shall be issued unless:

(a) All applicable requirements of the State’s Marijuana Code have been satisfied;

(b) All applicable requirements of this subchapter and other Town ordinances and regulations have been satisfied;

(c) The required license fees and associated costs have been paid;

(d) The criminal history of any person listed in § 112.036(B) through (D) indicates that he or she is of good moral character;

(e) The applicant is not in arrears in any administrative or court fines, assessments, sales tax reporting or payment obligations, or fees owed to the Town, and has no outstanding warrants for his or her arrest in any jurisdiction; and

(f) No fraudulent, misrepresented, or false statement of material or relevant fact is contained within the application.

(2) Before entering a decision approving or denying an application for a local license, the local licensing authority may consider the facts and evidence adduced as a result of its investigation, as well

as any other fact pertinent to the type of license for which application has been made, including the number, type, and availability of retail marijuana establishments in or near the premises under consideration, and any other matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

(3) The local licensing authority may refuse to issue a license for good cause.

(C) *Authority to impose conditions on license.* The local licensing authority shall have the authority to impose reasonable terms and conditions on a license as may be necessary to protect the public health, safety, and welfare, and to ensure compliance with the requirements of this subchapter and applicable law.

(D) *Concurrent review.* An applicant, with local licensing authority approval, may request that the local licensing authority conduct a concurrent review of a new license application prior to the State licensing authority's final approval of the license application. In such cases, the local licensing authority will continue to independently review the applicant's license application.

(E) *Final determination.* Not less than 30 days after any public hearing or meeting at which the application is considered, the local licensing authority shall issue its decision approving or denying any application for a local license. The decision shall be in writing and shall state the reasons for the decision. A copy of the decision shall be sent by certified mail to the applicant at the address on the application. Any decision approving an application for a local license shall be conditioned on an applicant's receipt of a State license from the State licensing authority.

(F) *Pre-issuance inspection.* After approval of an application, no local license shall be issued until the premises upon which the business is to be operated is ready for occupancy and that such furniture, fixtures, and equipment are in place. The Town Clerk and/or his or her designee shall inspect the premises to determine that the applicant has complied with the floor plan for the interior of the building submitted with the application.

(G) *Issuance of license.* Upon approval of an application and completion of the inspection required by division (F) above, the Town Clerk shall issue the proper local license to the applicant. The license shall be signed by the Mayor and the Town Clerk and shall include the seal of the Town.

(H) *State notification.* Upon approval of an application for a local license, the local licensing authority shall notify the State licensing authority of such action. If the application for a State license is denied, any approval for a local license shall be considered null and void unless and until the State application is remedied and approved.

(I) *Posting.* Every license issued pursuant to this subchapter shall be posted during the period such license is valid. Such license shall be posted upon the wall of the principal room or office of the premises. When such license expires, it shall be removed.

(J) *Deadline to open retail marijuana store.* After receiving State and local retail marijuana store licenses, the licensee shall have the retail marijuana store operational and open to the public within two

months. Upon written request, the licensing authority may, for good cause, as determined solely within the licensing authority's discretion grant a licensee one extension not to exceed 90 days. (Ord. 02-2016, passed 10-11-2016; Ord. 10-2019, passed 9-11-2019)

**§ 112.040 DUTIES OF LICENSEE.**

It is the duty and obligation of each licensee to do the following:

(A) Comply with all of the terms and conditions of the local and State license;

(B) Comply with all of the requirements of this subchapter and with all other applicable Town ordinances;

(C) Comply with Amendment 64, the State's Marijuana Code, and all State laws and administrative regulations pertaining to retail marijuana; and

(D) Permit inspection of its records and operation by an authorized Town representative for the purpose of determining the licensee's compliance with the terms and conditions of the local license. (Ord. 02-2016, passed 10-11-2016)

**§ 112.041 LICENSE DURATION; RENEWAL.**

(A) Each local license shall be valid for one year from the date of issuance and may be renewed as provided in this section.

(B) The local licensing authority shall act on renewal applications received from the State licensing authority in accordance with the applicable provisions of the State's Marijuana Code and the rules and regulations promulgated thereunder. No application for renewal shall be accepted after the date of expiration unless the applicant pays a non-refundable late application fee in the amount of \$500 at the time the renewal application is submitted, but in no event shall an application for renewal be accepted if the local license had been expired for more than 90 days.

(C) Every application for renewal shall be accompanied by a renewal fee as provided in § 112.044.

(D) Every complete application for renewal shall be referred to the local licensing authority for its review at a regular or special meeting of the Board of Trustees. No public hearing shall be required unless the licensee has had complaints filed against it has a history of violations, or there are allegations against the licensee that would constitute good cause. If a public hearing is conducted, the Town Clerk shall post and publish notice thereof not less than ten days prior to the scheduled date of the hearing and shall carry out all other public notice requirements as proscribed the State's Marijuana Code. The applicant shall be required to pay the costs of publishing and posting notice. The local licensing authority may refuse to renew any local license for good cause.

(E) The timely filing of a renewal application shall extend the current license until a final decision is made on the renewal application.  
(Ord. 02-2016, passed 10-11-2016)

**§ 112.042 TRANSFER; CHANGE OF LOCATION; MODIFICATION OF PREMISES.**

(A) No local license shall be transferred to another owner unless the requirements of § 112.035 concerning new local licenses are met. The local licensing authority shall review and act on the application as if the application was for a new license except with respect to the distance restrictions set forth in § 112.037(C).

(B) Any proposed change of location for a local license shall not occur unless approved by the local licensing authority taking into consideration all the requirements of the State's Marijuana Code and this subchapter. If the proposed change of location is denied, the local licensing authority shall give the licensee notice in writing and shall state the grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the local licensing authority within 15 days after the date of notice.

(C) After a local license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local licensing authority.

(1) For purposes of this section, physical changes, alterations, or modifications of the licensed premises, or in the usage of the premises requiring prior written consent, shall include, but not be limited to, the following:

(a) Any increase or decrease in the total size or capacity of the licensed premises;

(b) The sealing off, creation of, or relocation of a common entryway, doorway, passage, or other such means of public ingress and/or egress, when such common entryway, doorway, or passage alters or changes the sale, distribution, storage, or cultivation of retail marijuana within the licensed premises; and

(c) Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application.

(2) The foregoing shall not apply to painting and redecorating of premises, the installation or replacement of electric fixtures or equipment, the lowering of ceiling, the installation and replacement of floor coverings, the replacement of furniture and equipment, and other similar changes, nor to any nonstructural remodeling of a licensee's premises where the remodel does not expand the existing area designed for the display or sale of retail marijuana.

(3) In making its decision with respect to any proposed changes, alterations, or modifications, the local licensing authority shall consider whether the premises, as changed, altered, or modified, will meet all of the pertinent requirements of the State’s Marijuana Code and this subchapter.

(4) If permission to change, alter, or modify the licensed premises is denied, the local licensing authority shall give the licensee notice in writing and shall state the grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the local licensing authority within 15 days after the date of notice.  
(Ord. 02-2016, passed 10-11-2016)

**§ 112.043 SUSPENSION OR REVOCATION; FINE IN LIEU.**

(A) The local licensing authority may, on its own motion or on complaint, and after investigation and opportunity for a public hearing at which the licensee shall be afforded an opportunity to be heard, suspend or revoke any license previously issued for any of the following reasons:

(1) The licensee has failed to pay the annual license fee;

(2) The licensee has made a material falsehood or misrepresentation in the application for a license;

(3) The licensee or any of its agents or employees have violated any of the provisions of this subchapter, the State’s Marijuana Code, any rule or regulation promulgated pursuant to the State’s Marijuana Code or this subchapter, or any of the terms, conditions, or provisions of the local license;

(4) The licensee or any of its agents or employees have violated any ordinance of the Town or any State law on the premises or have permitted such a violation on the premises by any other person;

(5) Operations have ceased at the retail marijuana establishment for more than 90 days, including during a change of ownership of the business; or

(6) Ownership of the retail marijuana establishment has been transferred without the new owner obtaining a license pursuant to this subchapter.

(B) The local licensing authority has 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 a hearing.

(C) No suspension shall be for a period longer than six months. Notice of suspension or revocation, as well as any required notice of a public hearing, shall be given by mailing the same in writing to the licensee at the licensee’s last address of record with the Town Clerk.

(D) In the connection with the suspension of a local license, the local licensing authority may impose reasonable conditions or sanctions.

(E) In deciding whether a local license should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the local licensing authority shall consider:

- (1) The nature and seriousness of the violation;
- (2) Corrective action, if any, taken by the licensee;
- (3) Prior violation(s), if any, by the licensee;
- (4) The likelihood of recurrence;
- (5) All circumstances surrounding the violation;
- (6) Whether the violation was willful; and
- (7) Previous sanctions, if any, imposed against the licensee.

(F) No fee previously paid by a licensee in connection with the local license shall be refunded if such license is suspended or revoked.

(G) Whenever a decision of the local licensing authority suspending a license or permit for 14 days or less becomes final, the licensee may, before the operative date of the suspension, petition the local licensing authority for permission to pay a fine in lieu of the suspension for all or part of the suspension period. Upon receipt of such a petition, the local licensing authority may cause any investigation to be made which it deems desirable. The authority may, in its sole discretion, grant the petition if it is satisfied and makes findings that:

(1) The public welfare and morals would not be impaired by permitting the licensee to operate during all or a portion of the period set for suspension and that payment of the fine will achieve the desired disciplinary purposes;

(2) The books and records of the licensee are kept in such a manner that the loss of sales of retail marijuana which the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy; and

(3) The licensee has not had its license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two years immediately preceding the date of the complaint which resulted in the final decision to suspend the license.

(H) In no event shall the fine be less than \$500 or more than \$100,000. Payment of any fine authorized by the terms of this section shall be made by the licensee in the form of cash, certified check, or cashier check made payable to the Town, and shall be credited to the General Fund.

(I) Upon receipt of the fine from the licensee in the form of payment specified in division (H) above, the local licensing authority shall enter an order permanently staying the entire period of the suspension or that period which is not otherwise conditionally stayed.

(J) If the local licensing authority does not make the findings required in division (G) above, the licensee fails within the time specified by the local licensing authority to pay the fine imposed pursuant to this section, or the licensee tenders payment of the fine in a form other than as authorized in division (H) above, the suspension shall go into effect on the operative date finally set by the local licensing authority.

(Ord. 02-2016, passed 10-11-2016)

**§ 112.044 APPLICATION AND LICENSE FEES.**

Application fees and license fees for retail marijuana establishments shall be established by the Board of Trustees by resolution. The license fee shall be refunded if the application is denied, but the application fee and all other fees shall be non-refundable.

(Ord. 02-2016, passed 10-11-2016)

**§ 112.045 RIGHT OF ENTRY.**

(A) The application for a local license shall constitute the consent of the licensee and the licensee's agents or employees to permit the Town Clerk, any other authorized agent of the Town, or any law enforcement agency providing law enforcement services within the Town to conduct routine inspections to ensure compliance with this subchapter.

(B) If the retail marijuana establishment premises is occupied, the Town Clerk, authorized agent, or officer shall first present proper credentials and request entry. If the retail marijuana establishment is unoccupied, the Town Clerk, authorized agent, or officer shall first make a reasonable effort to locate the licensee or the licensee's agents or employees and request entry. If the request for entry is refused or if the licensee cannot be located after a reasonable effort, the Town Clerk, authorized agent, or officer may apply to the Municipal Court for a search warrant for inspection of the retail marijuana establishment in accordance with Rule 241 of the State's Municipal Court Rules of Procedure or to the county or district court, as applicable.

(C) When the Town Clerk, authorized agent, or officer obtains a search warrant or other remedy by law to secure entry, no licensee or occupant of the retail marijuana establishment shall fail or neglect, after proper request is made, to promptly permit entry by the Town Clerk, authorized agent, or officer for the purpose of inspection pursuant to this section.

(D) Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by any law enforcement agency providing law enforcement services within the Town for the purposes

of investigating and determining compliance with the provisions of this chapter and any other applicable State and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this subchapter and may require an audit to be made of the books of accounts and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

(Ord. 02-2016, passed 10-11-2016)

#### **§ 112.046 NO WAIVER OF GOVERNMENTAL IMMUNITY.**

In adopting this subchapter, the Board of Trustees is relying on, and does not waive or intend to waive by any provision of this subchapter, the monetary limitations or any other right, immunity, or protection provided by the State's Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers, or its employees, or agents.

(Ord. 02-2016, passed 10-11-2016)

#### **§ 112.047 NO TOWN LIABILITY.**

By accepting a license issued pursuant to this subchapter, a licensee releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of retail marijuana establishment owners, operators, employees, clients, or customers for a violation of State or federal laws, rules, or regulations. The Town Clerk may require a licensee to execute a written instrument confirming the provisions of this section.

(Ord. 02-2016, passed 10-11-2016)

#### **§ 112.048 INDEMNIFICATION OF TOWN.**

By accepting a license issued pursuant to this subchapter, a licensee, jointly and severally if more than one, agrees to indemnify and defend the Town, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the retail marijuana establishment that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees. The Town Clerk may require a licensee to execute a written instrument confirming the provisions of this section.

(Ord. 02-2016, passed 10-11-2016)

**§ 112.049 PENALTY.**

(A) Any person convicted of violating this subchapter may be punished as provided in § 11.02 of this Code.

(B) The operation of a retail marijuana establishment in violation of the terms of this subchapter may be enjoined by the Town in an action brought in a court of competent jurisdiction.

(C) The operation of a retail marijuana establishment in violation of the terms of this subchapter is determined to constitute a public nuisance and may be abated by the Town as a nuisance in accordance with Town ordinances.

(D) The remedies set forth in this section shall not be exclusive, but shall be cumulative and shall be in addition to any other remedy available at law or in equity.

(E) Upon conviction, the Town may pursue court costs in the prosecution of the case as allowed under applicable law.

(Ord.2-2016, passed 10-11-2016; Ord. 01-2023, passed 3-13-2023)

***MARIJUANA CULTIVATION, TESTING, AND PRODUCTS MANUFACTURING  
REGULATIONS***

**§ 112.060 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Other words and terms used in this subchapter that are defined in the State’s Marijuana Code or applicable regulations shall have the meaning that is ascribed to them in such statutes and regulations.

***COLORADO MARIJUANA CODE.*** C.R.S. Title 44, Article 10, as amended from time to time.

***CULTIVATION*** or ***CULTIVATE.*** Includes:

- (1) All phases of growth of marijuana from seed to harvest; or

(2) Preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption or prior to incorporation into a marijuana-infused product.

**CULTIVATION FACILITIES.** Include optional premises cultivation facilities and retail marijuana cultivation facilities as defined in the State's Marijuana Code.

**IFC.** The International Fire Code.

**NFPA.** The National Fire Protection Association.

**PRODUCTS MANUFACTURERS.** Medical marijuana-infused products manufacturers and retail marijuana products manufacturers as defined in the State's Marijuana Code.

**TESTING FACILITIES.** Medical marijuana testing facilities and retail marijuana testing facilities as defined in the State's Marijuana Code.

(Ord. 04-2019, passed 5-14-2019)

#### **§ 112.061 APPLICATION.**

This subchapter shall apply to all marijuana cultivation facilities, products manufacturers, and testing facilities operating within the Town.

(Ord. 04-2019, passed 5-14-2019)

#### **§ 112.062 COMPLIANCE WITH OTHER APPLICABLE LAWS.**

In addition to the regulations set forth in this subchapter, marijuana cultivation facilities, products manufacturers, and testing facilities shall be responsible for complying with any and all ordinances, laws, and regulations adopted by the Town and the State governing the cultivation, production, possession, or distribution of medical and retail marijuana and marijuana products, including, but not limited to, the requirement to obtain local and State licenses.

(Ord. 04-2019, passed 5-14-2019)

#### **§ 112.063 BUSINESS CONDUCTED WITHIN BUILDING.**

Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the licensed premises of the restricted area of a marijuana cultivated, produced, or distributed by a cultivation facility. Cultivation facilities shall comply with all applicable law regarding use of pesticides.

(Ord. 04-2019, passed 5-14-2019)

**§ 112.064 USE OF PESTICIDES.**

No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a cultivation facility. Cultivation facilities shall comply with all applicable law regarding use of pesticides. (Ord. 04-2019, passed 5-14-2019)

**§ 112.065 VENTILATION REQUIRED.**

Marijuana cultivation facilities, products manufacturers, and testing facilities shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the facility or at any adjoining use or property. (Ord. 04-2019, passed 5-14-2019)

**§ 112.066 ORGANIZATION OF CULTIVATION FACILITIES AND PRODUCT MANUFACTURERS.**

All cultivation facilities and product manufacturers shall be organized in orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle and the next aisle or the aisle and a wall, and clear access to all exits, unless a State certified fire protection engineer or other qualified inspector approved by the Town determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and inventory and to exits. (Ord. 04-2019, passed 5-14-2019)

**§ 112.067 LABELING AND PACKAGING REQUIREMENTS.**

All marijuana products sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that is in compliance with all applicable requirements of the State and any other applicable law. The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging. (Ord. 04-2019, passed 5-14-2019)

**§ 112.068 USE OF FLAMMABLE MATERIALS.**

No marijuana cultivation facility, products manufacturer, or testing facility may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors, to process or test marijuana unless the process used and the premises are verified as safe and in compliance with all applicable laws and regulations codes by a State certified fire protection engineer or other qualified inspector approved by the Town. The cost of the report described in this section shall be paid for by the marijuana cultivation facility, products manufacturer, or testing facility (Ord. 04-2019, passed 5-14-2019)

**§ 112.069 USE OF CARBON DIOXIDE (CO<sub>2</sub>) SYSTEMS.**

If a cultivation facility uses a CO<sub>2</sub> system, then the following requirements shall be met.

(A) Equipment (meters or gauges) shall be provided to monitor CO<sub>2</sub> levels in each grow area/room and CO<sub>2</sub> storage locations.

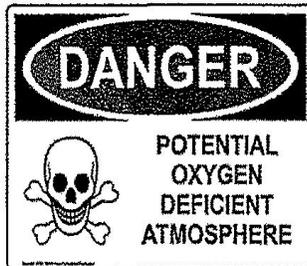
(B) Meters shall be calibrated and inter-connected to gas supply solenoids located at the storage container to limit CO<sub>2</sub> levels to a maximum of 5,000 ppm.

(C) All systems must have valves that positively close in the event of a loss of electrical power to the building or in event of alarm activation. Manual reset shall be installed to reset the system.

(D) All sensors, alarms, and storage containers must be inspected and tested annually or as prescribed by the manufacturer. A written record of all required inspection and testing shall be maintained on the premises for a period of three years. Testing of emergency devices or systems required by this policy shall be conducted by persons trained and qualified in these systems.

(E) Gases shall be distributed within the facility by means of any approved piping system. These pipes must be labeled with name of gases and direction of flow. All shut offs must be marked as such.

(F) Signage shall be provided on the entrance door of each grow room/area and all storage rooms utilizing CO<sub>2</sub> stating:



(G) NFPA 704 Simple Asphyxiate placards shall also be provided at the exterior main entrance and at room where CO<sub>2</sub> is used.

(H) The use of flammable gas/liquids in the extraction of THC or in the MTP facility requires the installation of a NFPA 704 placarding specific to the highest hazard gas being used as a solvent; posted on the main entrance and entrance to extraction room.

(Ord. 04-2019, passed 5-14-2019)

**§ 112.070 PRODUCT EXTRACTION PROCESSES.**

The following requirements apply where marijuana plants are processed into refined or concentrated products utilizing compressed, flammable gases.

(A) Equipment used in the processing of plant material using butane or other flammable gasses or hazardous materials must be submitted to a State certified fire protection engineer or other qualified inspector approved by the Town for review and approval of the process prior to use of the equipment. This includes changes of existing processes or new equipment.

(B) A production facility, in its entirety, must be reviewed and approved by a State certified fire protection engineer or other qualified inspector approved by the Town. A letter or documentation of approval must be submitted to the Town and a copy must be maintained on the premises at all times. The cost of such review and inspection shall be paid for by the marijuana cultivation facility, products manufacturer, or testing facility.

(C) All equipment used in the extraction of THC must be UL listed or must be reviewed and approved by a State certified fire protection engineer or other qualified inspector approved by the Town.

(D) The final process of cooking or heating off any remaining flammable gasses or hazardous materials must be completed within a UL listed chemical hood that has been installed and approved by a State certified fire protection engineer or other qualified inspector approved by the Town or inside a closed oven that is vented to the exterior of the building.

(E) Any other process used to remove the final amounts of flammable gasses and or hazardous material must be approved by a State certified fire protection engineer or other qualified inspector approved by the Town prior to its use.

(F) Storage of butane or other flammable gasses shall be in accordance with the 2012 International Fire Code (IFC).

(G) A flammable gas detector specific to the gas being used as the solvent shall be in use during the extraction process and any time there is gas in the facility.

(H) Extraction equipment shall be used strictly in accordance with the manufacturer’s instructions.

(I) Operational checklists (including pre and post-production) shall be posted and readily visible near extraction equipment. Mandated pre-operation leak checking with an associated log that must be made available to inspectors upon request.

(J) Other extraction processes using hazardous materials shall be submitted for review and approval by a State certified fire protection engineer other qualified inspector approved by the Town.  
(Ord. 04-2019, passed 5-14-2019)

**§ 112.071 EXITING AND SECURITY.**

Marijuana cultivation facilities, products manufacturers, and testing facilities shall comply with the following exiting and security standards.

(A) Required minimum exit access shall be provided and in accordance with the 2012 IFC.

(B) Enhanced building security measures shall not impede egress for the facilities' occupants or firefighters in the event of an emergency.

(C) Fire Department Key Access (Knox Box) shall be provided near the main entrance to the facility.

(D) Locking hardware on doors (interior or exterior) shall be in accordance with the 2012 International Building Code (IBC).  
(Ord. 04-2019, passed 5-14-2019)

**§ 112.072 FIRE EXTINGUISHERS.**

(A) Portable fire extinguishers shall be provided within the facility in accordance with the 2012 IFC.

(B) Travel distance to extinguishers shall not exceed 75 feet of travel.

(C) Minimum extinguisher size permitted is 2A10BC (IPC 906 and 906.1).  
(Ord. 04-2019, passed 5-14-2019)

**§ 112.073 INTERIOR FINISHES.**

Rooms shall not be covered, draped, or otherwise have installed, any material not rated for flame spread and smoke development based on occupancy. The use of any plastic or fabric must meet the requirements of KPFA 701, and documentation of certification must be submitted to Fire Department and a copy must be maintained on the premises at all times.  
(Ord. 04-2019, passed 5-14-2019)

**§ 112.074 ELECTRICAL.**

(A) All marijuana cultivation facilities, products manufacturers, and testing facilities shall obtain all required electrical permits and inspections from the State's Electrical Board. Copies of required permits shall be submitted to the Town and shall be maintained on the premises.

(B) Extension cords, power strips, or multi-outlet assemblies and the like are prohibited from being used as permanent wiring.  
(Ord. 04-2019, passed 5-14-2019)

**§ 112.075 APPLICATION OF FIRE CODE; SITE INSPECTION.**

The 2012 IFC shall apply to all marijuana cultivation facilities, products manufacturers, and testing facilities. Upon licensing with Town and State and prior to opening for business, a general fire inspection shall be completed by a State certified fire protection engineer or other qualified inspector approved by the Town to determine compliance with the 2012 IFC and this subchapter.  
(Ord. 04-2019, passed 5-14-2019)

**§ 112.076 COST OF INSPECTIONS AND REPORTS.**

The cost of any inspections and reports required by this subchapter shall be at the sole expense of the marijuana cultivation facility, products manufacturer, and testing facility.  
(Ord. 04-2019, passed 5-14-2019)

**§ 112.077 PENALTY.**

(A) Any person convicted of violating this subchapter may be punished as provided in § 11.02 of this Code.

(B) Violation of this subchapter shall also serve as grounds for suspension or revocation of the license of a marijuana cultivation facility, products manufacturer, and testing facility. Suspension or revocation hearings shall be conducted in accordance with applicable statutes and Town ordinances.  
(Ord. 04-2019, passed 5-14-2019; Ord. 01-2023, passed 3-13-2023)

***RETAIL MARIJUANA SALES TAX***

**§ 112.090 LEGISLATIVE INTENT.**

The Board of Trustees intends that an additional sales tax be imposed on the sale of retail marijuana and retail marijuana products as authorized by State statutes.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.091 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**MARIJUANA.** All parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. **MARIJUANA** does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

**PERSON.** A natural person, partnership, association, company, corporation, limited liability company, or organization; except that **PERSON** does not include any governmental organization.

**RETAIL MARIJUANA.** Marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana store.

**RETAIL MARIJUANA PRODUCTS.** 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.

**RETAIL MARIJUANA STORE.** An entity licensed to purchase retail marijuana from retail marijuana cultivation facilities and retail marijuana and retail marijuana products from marijuana product manufacturing facilities and sell retail marijuana and retail marijuana products to consumers.

**SALE.** The furnishing of retail marijuana or retail marijuana products for consideration by a retail marijuana store within the Town.

**TAX.** The tax payable by the vendor or the aggregate amount of taxes due from vendor during the period for which the vendor is required to pay the sales tax on the provision of retail marijuana and retail marijuana products under this subchapter.

**TAXPAYER.** The vendor obligated to pay the tax under the terms of this subchapter.

**VENDOR.** A retail marijuana store furnishing retail marijuana or retail marijuana products to a person for consideration within the Town.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.092 RETAIL MARIJUANA SALES TAX.**

In addition to any other taxes imposed by the Town, there is hereby imposed upon all sales of retail marijuana and retail marijuana products a tax at the rate of 5% of the amount of the sale.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.093 COLLECTION OF TAX.**

(A) Every vendor providing retail marijuana or retail marijuana products taxable under this subchapter shall remit such tax on or before the twentieth day of each month on account of retail marijuana or retail marijuana products transactions in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe.

(B) The burden of proving that any transaction is exempt from the tax shall be upon the vendor.

(C) It shall be the duty of every vendor to maintain, keep, and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under this subchapter. It shall be the duty of every such vendor to keep and preserve for a period of three years all such books, invoices, and other records and the same shall be open for examination by the Town Clerk or designee.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.094 AUDIT OF RECORDS.**

(A) For the purpose of ascertaining the correct amount of the retail marijuana sales tax due from any vendor under this subchapter, the Town Clerk or an authorized agent may conduct an audit by examining any relevant books, accounts, and records of such person.

(B) All books, invoices, accounts, and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts, and records for examination.

(C) Any exempt person claiming an exemption under the provisions of this subchapter is subject to audit in the same manner as any other vendor.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.095 TAX OVERPAYMENTS AND DEFICIENCIES.**

An application for refund of tax monies paid in error or by mistake shall be made within three years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three years of the due date, a vendor overpaid the tax under this subchapter, he or she shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this subchapter, the difference together with interest at the rate of 1.5% assessed from the date such amount was first due, shall be paid by the vendor within ten days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.

(Ord. 3-2020, passed 1-14-2020)

**§ 112.096 TAX INFORMATION CONFIDENTIAL.**

(A) All specific information gained under the provisions of this subchapter which is used to determine 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. Except as directed by judicial order or as provided in this subchapter, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding.

(B) The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.

(C) Nothing contained in this section shall be construed to prohibit the delivery to a taxpayer or its duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

(Ord. 3-2020, passed 1-14-2020)

**§ 112.097 FORMS AND REGULATIONS.**

The Town Clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment, and collection of the tax under this subchapter and in particular and without limiting the general language of this subchapter, to provide for:

(A) A form of report to be supplied to all vendors; and

(B) The records which vendors are to keep concerning the tax imposed by this subchapter.

(Ord. 3-2020, passed 1-14-2020)

**§ 112.098 FAILURE TO PAY TAX.**

It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this subchapter, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this subchapter.

(Ord. 3-2020, passed 1-14-2020)

**§ 112.099 TAX LIEN.**

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

(B) The tax imposed by this subchapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

(Ord. 3-2020, passed 1-14-2020)

**§ 112.100 RECOVERY OF UNPAID TAX.**

(A) The Town Clerk may also treat any such taxes, penalties, costs, or interest due and unpaid as a debt due the Town from the taxpayer.

(B) In case of failure to pay the taxes, or any portion thereof, or any penalty, costs, or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, reasonable attorney's fees, including legal assistant's fees, charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.

(C) The return of the taxpayer or the assessment made by the Town Clerk shall be prima facie proof of the amount due.

(D) Such actions may be actions in attachment, and writs of attachment may be issued to the County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town peace officer or sheriff require of the Town Clerk an indemnifying bond for

executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.

(E) It shall be the duty of the Town Attorney, when requested by the Board of Trustees, to commence action for the recovery of taxes due under this subchapter and this remedy shall be in addition to all other existing remedies, or remedies provided in this subchapter.

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

(Ord. 3-2020, passed 1-14-2020)

#### **§ 112.101 STATUS OF UNPAID TAX IN BANKRUPTCY AND RECEIVERSHIP.**

Whenever the business or property of a taxpayer subject to this subchapter shall be placed in receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties, and interest imposed by this subchapter and for which the taxpayer is in any way liable under the terms of this subchapter shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this subchapter under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this subchapter, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.

(Ord. 3-2020, passed 1-14-2020)

#### **§ 112.102 HEARINGS, SUBPOENAS, AND WITNESS FEES.**

(A) Hearings before the Town Clerk pursuant to provisions in this subchapter shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this subchapter may be enforced by the Municipal Judge pursuant to C.R.S. § 13-10-112(2). The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this subchapter, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at his or her discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

(B) The Municipal Judge, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records, or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.103 DEPOSITIONS.**

The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records, or memoranda.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.104 STATUTE OF LIMITATIONS.**

(A) Except as otherwise provided in this section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this subchapter shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable, nor shall any lien continue after such period, except for taxes assessed before the expiration of such three-year period when the notice of lien with respect to which has been filed prior to the expiration of such period.

(B) In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.

(C) Before the expiration of such period of limitation, the taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.105 RIGHT TO AMEND.**

The Board of Trustees shall have the right to amend or repeal the provisions of this subchapter, including all provisions regarding collection, administration, use, and enforcement of the retail marijuana sales tax, except that the amount of the tax and events subject to the tax as approved by the voters on April 7, 2020 shall not be increased, expanded, or broadened without additional voter approval.  
(Ord. 3-2020, passed 1-14-2020)

**§ 112.106 PENALTY.**

(A) Any person convicted of violating this subchapter may be punished as set forth in § 11.02 of this Code.

(B) (1) A penalty in the amount of 10% of the tax due or the sum of \$10, whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the twentieth day of the month as required by §§ 112.090 to 112.105, or such other date as prescribed by the Town Clerk, and 1.5% interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.

(2) If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added 10% of the total amount of the deficiency, and interest, from the vendor required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added 50% of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten days after written notice and demand by the Town Clerk.

(3) If any vendor fails to make a return and pay the tax imposed by §§ 112.090 to 112.105, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the vendor at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten-day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten-day period, furnish the Town Clerk the documents, facts, and figures showing the correct amount of such taxes due and owing.

(4) Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the taxpayer under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of §§ 112.090 through 112.105. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a Court of competent jurisdiction under the Rule 106(a)(4) of the State's Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten days after receipt of the final order of assessment.

(Ord. 3-2020, passed 1-14-2020; Ord. 01-2023, passed 3-13-2023)

***RETAIL MARIJUANA CULTIVATION FACILITY EXCISE TAX***

**§ 112.115 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AFFILIATED MARIJUANA BUSINESS LICENSEE.*** Has the same meaning as in C.R.S. § 39-28.8-101(1), as may be amended from time to time.

***AVERAGE MARKET RATE.*** Has the same meaning as in C.R.S. § 39-28.8-101(1.5), as may be amended from time to time.

***CONTRACT PRICE.*** Has the same meaning as in C.R.S. § 39-28.8-101(2.5), as may be amended from time to time.

***MARIJUANA.*** Has the same meaning as in Article XVIII, § 16(2)(f) of the Colorado Constitution.

***PERSON.*** A natural person, partnership, association, company, corporation, limited liability company, or organization; except that person does not include any governmental organization.

***RETAIL MARIJUANA.*** Has the same meaning as in C.R.S. § 39-28.8-101(7), as may be amended from time to time.

***RETAIL MARIJUANA CULTIVATION FACILITY.*** Has the same meaning as in C.R.S. § 39-28.8-101(8), as may be amended from time to time.

***SALE.*** Has the same meaning as in C.R.S. § 39-28.8-101(13), as may be amended from time to time.

***TRANSFER.*** Has the same, meaning as in C.R.S. § 39-28.8-101(14), as may be amended from time to time.

***UNPROCESSED RETAIL MARIJUANA.*** Has the same meaning as in C.R.S. § 39-28.8-101(15), as may be amended from time to time.

***VENDOR.*** A retail marijuana cultivation facility, duly licensed by the State and the Town at a location within the Town.

(Ord. 01-2016, passed 2-8-2016; Ord. 1-2020, passed 1-14-2019)

**§ 112.116 IMPOSITION AND RATE OF TAX.**

There is levied and shall be paid and collected an excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility at a rate of 2% on the average market rate if the transaction is between affiliated retail marijuana business licensees and at a rate of 2% of the contract price if the transaction is between unaffiliated retail marijuana business licensees. (Ord. 01-2016, passed 2-8-2016; Ord. 1-2020, passed 1-14-2019)

**§ 112.117 VENDOR LIABILITY FOR COLLECTING THE TAX.**

(A) Each vendor shall pay the tax imposed by § 112.116 on every sale or transfer of retail marijuana from the vendor.

(B) The burden of proving that any transaction is not subject to the tax imposed by this subchapter is upon the person upon whom the duty to collect the tax is imposed.

(C) All sums of money paid as the excise tax imposed by this subchapter are public monies that are the property of the Town. The person required to collect and remit the excise tax shall hold such monies in trust for the sole use and benefit of the Town until paying them to the Town. (Ord. 01-2016, passed 2-8-2016)

**§ 112.118 COLLECTION AND REPORTING.**

Every vendor with a duty to collect the excise tax shall collect the tax on behalf of the Town and shall act as a trustee therefor. The tax shall be collected from purchasers and remitted to the Town Clerk on or before the twentieth day of the month succeeding the month in which the tax has been paid and collected. Every vendor shall make a monthly report which shall be submitted at the same time the collected tax is remitted. A return must be filed even if no sales or transfers were made or if no tax is due for the period. Returns with a “zero” tax must be filed to avoid non-filer notices and penalty assessments. Such reports shall be upon such forms as may be provided by the Town Clerk. (Ord. 01-2016, passed 2-8-2016)

**§ 112.119 DUTY OF VENDORS TO KEEP RECORDS.**

Vendors shall maintain adequate records at the vendor’s place of business within the Town and such records shall be open to inspection by the Town Clerk during reasonable business hours. All such records shall be maintained by vendors for a period of not less than three years. (Ord. 01-2016, passed 2-8-2016)

**§ 112.120 ADMINISTRATION.**

Administrative duties under this subchapter shall be the responsibility of the Town Clerk.  
(Ord. 01-2016, passed 2-8-2016)

**§ 112.121 USE OF REVENUES.**

Revenues from the excise tax shall be deposited in the General Fund and shall be available to pay for the general expenses of government. Excise tax revenues may be appropriated and expended upon authorization by the Board of Trustees for uses determined reasonable and necessary by the Board of Trustees.  
(Ord. 01-2016, passed 2-8-2016)

**§ 112.122 AUDIT OF RECORDS.**

(A) For the purpose of ascertaining the correct amount of the excise tax due from any vendor under this subchapter, the Town Clerk or an authorized agent may conduct an audit by examining any relevant books, accounts, and records of such person.

(B) All books, invoices, accounts, and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts, and records for examination.

(C) Any person claiming an exemption under the provisions of this subchapter is subject to audit in the same manner as any other vendor.  
(Ord. 01-2016, passed 2-8-2016)

**§ 112.123 TAX OVERPAYMENTS AND DEFICIENCIES.**

An application for refund of tax monies paid in error or by mistake shall be made within three years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three years of the due date, a vendor overpaid the excise tax under this subchapter, he or she shall process a refund or allow a credit against a future remittance from the same vendor. If at any time the Town Clerk determines the amount paid is less than the amount due under this subchapter, the difference, together with interest at the rate of 1.5% assessed from the date such amount was first due, shall be paid by the vendor within ten days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.  
(Ord. 01-2016, passed 2-8-2016)

**§ 112.124 FAILURE TO PAY TAX.**

It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this subchapter, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this subchapter.

(Ord. 01-2016, passed 2-8-2016)

**§ 112.125 TAX LIEN.**

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

(B) The tax imposed by this subchapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

(Ord. 01-2016, passed 2-8-2016)

**§ 112.126 RECOVERY OF UNPAID TAX.**

(A) The Town Clerk may also treat any such taxes, penalties, costs, or interest due and unpaid as a debt due the Town from the taxpayer.

(B) In case of failure to pay the taxes, or any portion thereof, or any penalty, costs, or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, reasonable attorney's fees, including legal assistant's fees, charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.

(C) The return of the vendor or the assessment made by the Town Clerk shall be prima facie proof of the amount due.

(D) Such actions may be actions in attachment, and writs of attachment may be issued to the County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town peace officer or sheriff require of the Town Clerk an indemnifying bond for

executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.

(E) It shall be the duty of the Town Attorney, when requested by the Board of Trustees, to commence action for the recovery of taxes due under this subchapter and this remedy shall be in addition to all other existing remedies, or remedies provided in this subchapter.

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

(Ord. 01-2016, passed 2-8-2016)

**§ 112.127 STATUS OF UNPAID TAX IN BANKRUPTCY AND RECEIVERSHIP.**

Whenever the business or property of a vendor subject to this subchapter shall be placed in receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties, and interest imposed by this subchapter and for which the vendor is in any way liable under the terms of this subchapter shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this subchapter under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this subchapter, and if there be any such taxes due, owing, and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.

(Ord. 01-2016, passed 2-8-2016)

**§ 112.128 HEARINGS, SUBPOENAS, WITNESS FEES, AND DEPOSITIONS.**

(A) Hearings before the Town Clerk pursuant to provisions in this subchapter shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this subchapter may be enforced by the Municipal Court pursuant to C.R.S. § 13-10-112(2). The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this subchapter, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at his or her discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

(B) The Municipal Court, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records, or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

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

(Ord. 01-2016, passed 2-8-2016)

### **§ 112.129 STATUTE OF LIMITATIONS.**

(A) Except as otherwise provided in this section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this subchapter shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable, nor shall any lien continue after such period, except for taxes assessed before the expiration of such three-year period when the notice of lien with respect to which has been filed prior to the expiration of such period.

(B) In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.

(C) Before the expiration of such period of limitation, the taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

(Ord. 01-2016, passed 2-8-2016)

### **§ 112.130 RIGHT TO AMEND.**

The Board of Trustees shall have the right to amend or repeal the provisions of this subchapter, including all provisions regarding collection, administration, use, and enforcement of the excise tax, except that the amount of the tax and events subject to the tax as approved by the voters on April 5, 2016 shall not be increased, expanded, or broadened without additional voter approval.

(Ord. 01-2016, passed 2-8-2016)

### **§ 112.131 PENALTY.**

(A) Any person convicted of violating this subchapter may be punished as set forth in § 11.02 of this Code.

(B) (1) A penalty in the amount of 10% of the tax due or the sum of \$10, whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the twentieth day of the month as required by §§ 112.115 to 112.130, or such other date as prescribed by the Town Clerk, and 1.5% interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.

(2) If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added 10% of the total amount of the deficiency, and interest, from the vendor required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added 50% of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten days after written notice and demand by the Town Clerk.

(3) If any vendor fails to make a return and pay the tax imposed by §§ 112.115 to 112.130, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the vendor at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten-day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten-day period, furnish the Town Clerk the documents, facts, and figures showing the correct amount of such taxes due and owing.

(4) Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the taxpayer under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of §§ 112.115 to 112.130. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a court of competent jurisdiction under the Rule 106(a)(4) of the State's Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten days after receipt of the final order of assessment.

(Ord. 01-2016, passed 2-8-2016; Ord. 01-2023, passed 3-13-2023)

***OCCUPATION TAX ON RETAIL MARIJUANA PRODUCTS MANUFACTURING FACILITIES*****§ 112.140 PURPOSE.**

The Board of Trustees hereby finds, determines, and declares the following.

(A) For the purposes of this subchapter, retail marijuana products manufacturing facilities selling retail marijuana products and retail marijuana within the Town are exercising a taxable privilege. The purpose of this subchapter is to impose a tax which will be paid by every retail marijuana products manufacturing facility selling retail marijuana products and marijuana, which tax will provide revenues for the Town.

(B) The provision of retail marijuana products and retail marijuana by retail marijuana products manufacturing facilities to retail marijuana stores and other manufacturing facilities results in the increased use of Town streets and rights-of-way, increased demands upon municipal services and utilities, and has a substantial affect upon the health, safety, and welfare of the citizens of the Town and upon the expenditures budgeted by the Town which is a matter of local concern.

(C) The classification of retail marijuana products manufacturing facilities as separate businesses and occupations is reasonable, proper, uniform, and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory, and necessary.  
(Ord. 04-2020, passed 2-11-2020)

**§ 112.141 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***MARIJUANA.*** All parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. ***MARIJUANA*** does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

***RETAIL MARIJUANA.*** Marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana business.

***RETAIL MARIJUANA PRODUCTS.*** 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.

**RETAIL MARIJUANA PRODUCTS MANUFACTURING FACILITY.** An entity licensed to purchase retail marijuana; manufacture, prepare, and package retail marijuana products and sell retail marijuana products and retail marijuana to retail marijuana stores and to other retail marijuana product manufacturing facilities, but not to consumers.

**TAX.** The tax payable by the vendor or the aggregate amount of taxes due from vendor during the period for which the vendor is required to pay the occupation tax on the provision of retail marijuana products or retail marijuana under this subchapter.

**VENDOR.** A retail marijuana products manufacturing facility furnishing retail marijuana or retail marijuana products to retail marijuana stores or other retail marijuana products manufacturing facilities.

**WHOLESALE TRANSACTION.** The furnishing of retail marijuana products or retail marijuana for consideration by retail marijuana products manufacturing facilities to retail marijuana stores and other retail marijuana products manufacturing facilities for resale and does not include sales to consumers not for resale, which are deemed retail sales.

(Ord. 04-2020, passed 2-11-2020)

**§ 112.142 LEVY OF TAX.**

There is hereby levied by the Town an occupation tax on all wholesale transactions by a retail marijuana product manufacturing facility in the following amounts:

- (A) Five dollars per wholesale transaction that is less than \$100;
- (B) Ten dollars per wholesale transaction that is \$100 or more but less than \$500; and
- (C) Twenty-five dollars per wholesale transaction that is \$500 or more.

(Ord. 04-2020, passed 2-11-2020)

**§ 112.143 COLLECTION OF TAX.**

(A) Every vendor providing retail marijuana or retail marijuana products taxable under this subchapter shall remit such tax on or before the twentieth day of each month on account of wholesale transactions in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe.

(B) The burden of proving that any transaction is exempt from the tax shall be upon the vendor.

(C) It shall be the duty of every vendor to maintain, keep, and preserve suitable records of all wholesale transactions by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under this subchapter.

It shall be the duty of every such vendor to keep and preserve for a period of three years all such books, invoices, and other records and the same shall be open for examination by the Town Clerk or designee.

(D) The tax to be paid by a vendor shall not be stated and charged separately from the wholesale transaction price on any record thereof at the time when the sale is made or at the time when evidence of the sale is issued, provided, a vendor may indicate the wholesale transaction price includes \$ \_\_\_\_\_ Town retail marijuana products manufacturers occupation tax.

(Ord. 04-2020, passed 2-11-2020)

#### **§ 112.144 AUDIT OF RECORDS.**

(A) For the purpose of ascertaining the correct amount of the occupation tax due from any vendor under this subchapter, the Town Clerk or an authorized agent may conduct an audit by examining any relevant books, accounts, and records of such vendor.

(B) All books, invoices, accounts, and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any vendor refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the vendor or its representative attend a hearing or produce any such books, accounts, and records for examination.

(C) Any person claiming an exemption under the provisions of this subchapter is subject to audit in the same manner as any other vendor.

(Ord. 04-2020, passed 2-11-2020)

#### **§ 112.145 TAX OVERPAYMENT AND DEFICIENCIES.**

An application for refund of tax monies paid in error or by mistake shall be made within three years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three years of the due date, a vendor overpaid the occupation tax under this subchapter, he or she shall process a refund or allow a credit against a future remittance from the same vendor. If at any time the Town Clerk determines the amount paid is less than the amount due under this subchapter, the difference together with interest at the rate of 1.5% assessed from the date such amount was first due, shall be paid by the vendor within ten days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.

(Ord. 04-2020, passed 2-11-2020)

#### **§ 112.146 TAX INFORMATION CONFIDENTIAL.**

(A) All specific information gained under the provisions of this subchapter which is used to determine the tax due from a vendor, whether furnished by the vendor or obtained through audit, shall be treated by the Town and its officers, employees, or legal representatives as confidential. Except as

directed by judicial order or as provided in this subchapter, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this subchapter or by law, shall be guilty of a violation hereof.

(B) The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.

(C) Nothing contained in this section shall be construed to prohibit the delivery to a vendor or its duly authorized representative a copy of such confidential information relating to such vendor, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town. (Ord. 04-2020, passed 2-11-2020)

**§ 112.147 FORMS AND REGULATIONS.**

The Town Clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment, and collection of the occupation tax under this subchapter and in particular and without limiting the general language of this subchapter, to provide for:

(A) A form of report to be supplied to all vendors; and

(B) The records which vendors are to keep concerning the tax imposed by this subchapter. (Ord. 04-2020, passed 2-11-2020)

**§ 112.148 FAILURE TO PAY TAX.**

It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this subchapter, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this subchapter. (Ord. 04-2020, passed 2-11-2020)

**§ 112.149 TAX LIEN.**

(A) The tax imposed by this subchapter, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be, and until paid, remain a first and prior lien superior to all other liens on all of the tangible personal property of a vendor within the Town and may

be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the vendor is in default in the payment of the tax, interest, penalty, or costs. Such warrant may be served and the goods subject to such lien seized by any Town peace officer, the County Sheriff, or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk at public auction after ten days have passed following an advertised notice in a newspaper published in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.

(B) The tax imposed by this subchapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred. (Ord. 04-2020, passed 2-11-2020)

#### **§ 112.150 RECOVERY OF UNPAID TAX.**

(A) The Town Clerk may also treat any such taxes, penalties, costs, or interest due and unpaid as a debt due the Town from the vendor.

(B) In case of failure to pay the taxes, or any portion thereof, or any penalty, costs, or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, reasonable attorney's fees, including legal assistant's fees, charged, plus interest, in any county or district court of the county wherein the vendor resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.

(C) The return of the vendor or the assessment made by the Town Clerk shall be prima facie proof of the amount due.

(D) Such actions may be actions in attachment, and writs of attachment may be issued to the County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town peace officer or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.

(E) It shall be the duty of the Town Attorney, when requested by the Board of Trustees, to commence action for the recovery of taxes due under this subchapter and this remedy shall be in addition to all other existing remedies or remedies provided in this subchapter.

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

(Ord. 04-2020, passed 2-11-2020)

**§ 112.151 STATUS OF UNPAID TAX IN BANKRUPTCY AND RECEIVERSHIP.**

Whenever the business or property of a vendor subject to this subchapter shall be placed in receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties, and interest imposed by this subchapter and for which the vendor is in any way liable under the terms of this subchapter shall be a prior and preferred lien against all the property of the vendor, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this subchapter under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this subchapter, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.  
(Ord. 04-2020, passed 2-11-2020)

**§ 112.152 HEARINGS, SUBPOENAS, AND WITNESS FEES.**

(A) Hearings before the Town Clerk pursuant to provisions in this subchapter shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this subchapter may be enforced by the Municipal Judge pursuant to C.R.S. § 13-10-112(2). The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this subchapter, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at his or her discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

(B) The Municipal Judge, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records, or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.  
(Ord. 04-2020, passed 2-11-2020)

**§ 112.153 DEPOSITIONS.**

The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records, or memoranda.  
(Ord. 04-2020, passed 2-11-2020)

**§ 112.154 STATUTE OF LIMITATIONS.**

(A) Except as otherwise provided in this section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this subchapter shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable, nor shall any lien continue after such period, except for taxes assessed before the expiration of such three-year period when the notice of lien with respect to which has been filed prior to the expiration of such period.

(B) In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed or proceedings for the collection of such taxes may be commenced at any time.

(C) Before the expiration of such period of limitation, the vendor and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

(Ord. 04-2020, passed 2-11-2020)

**§ 112.155 RIGHT TO AMEND.**

The Board of Trustees shall have the right to amend or repeal the provisions of this subchapter, including all provisions regarding collection, administration, use, and enforcement of the retail marijuana products manufacturers occupation tax, except that the amount of the tax and events subject to the tax as approved by the voters on April 7, 2020 shall not be increased, expanded, or broadened without additional voter approval.

(Ord. 04-2020, passed 2-11-2020)

**§ 112.156 PENALTY.**

(A) Any person convicted of violating this subchapter may be punished as set forth in § 11.02 of this Code.

(B) (1) A penalty in the amount of 10% of the tax due or the sum of \$10, whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the twentieth day of the month as required by this subchapter, or such other date as prescribed by the Town Clerk, and 1.5% interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.

(2) If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added 10% of the total amount of the deficiency, and interest, from the vendor required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added 50% of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten days after written notice and demand by the Town Clerk.

(3) If any vendor fails to make a return and pay the tax imposed by this subchapter, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the vendor at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the vendor to the Town Clerk ten days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten-day period such delinquent, vendor may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten-day period, furnish the Town Clerk the documents, facts, and figures showing the correct amount of such taxes due and owing.

(4) Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the vendor under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this subchapter. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a court of competent jurisdiction under the Rule 106(a)(4) of the State's Rules of Civil Procedure, provided that the vendor gives written notice to the Town Clerk of such intention within ten days after receipt of the final order of assessment.

(Ord. 04-2020, passed 2-11-2020; Ord. 01-2023, passed 3-13-2023)



**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL OFFENSES**



## CHAPTER 130: GENERAL OFFENSES

Section

### *Miscellaneous Offenses*

- 130.01 Curfew
- 130.02 Disturbing the peace
- 130.03 Public intoxication
- 130.04 Loitering or prowling
- 130.05 Unlawful assembly; failing to disperse
- 130.06 Disorderly conduct
- 130.07 Vagrancy
- 130.08 Obstructing public streets, places, or buildings
- 130.09 Trespass and unauthorized use of property prohibited
- 130.10 Damaging property

### *Public Safety Regulations*

- 130.30 Indecent exposure
- 130.31 Reserved
- 130.32 Subterraneous openings
- 130.33 Throwing stones and the like
- 130.34 False alarms
- 130.35 Assault
- 130.36 Excavations
- 130.37 Vehicles on sidewalks

## **MISCELLANEOUS OFFENSES**

### **§ 130.01 CURFEW.**

(A) It shall be unlawful for any parent, guardian, or other person having care or custody of any child under the age of 16 years to allow or permit any such child to be or remain upon any street, alley, or other public place subsequent to the hour of 10:30 p.m., or prior to the hour of 6:00 a.m., except for

lawful employment or unless there exists a reasonable necessity therefor; or unless such child is accompanied by the parent, guardian, or other person of the age of 21 years having permission of the parent or guardian to have the custody and care of such child; or by any person between the ages of 18 years and 21 years having in his or her possession written permission from the parent or guardian to have the care or custody of such child; provided, that on Friday and Saturday nights, the curfew hour for children between the ages of eight and 16 years shall be extended to the hour of 11:30 p.m.

(B) It shall be unlawful for any child under the age of 16 years to be or remain upon any street, alley, or other public place subsequent to the hour of 10:30 p.m., or prior to the hour of 6:00 a.m., except for lawful employment or unless there exists a reasonable necessity therefor, or unless such child is accompanied by the parent, guardian, or other person of the age of 21 years having permission of the parent or guardian to have the custody and care of such child; or by any person between the ages of 18 years and 21 years having in his or her possession written permission from the parent or guardian to have the care or custody of such child; provided, that on Friday and Saturday nights, the curfew hour for children between the ages of eight and 16 years shall be extended to the hour of 11:30 p.m. (Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

#### **§ 130.02 DISTURBING THE PEACE.**

It shall be unlawful for any person to disturb or tend to disturb the peace of others by violent, tumultuous, offensive, or obstreperous conduct, or by loud or unusual noises or by remaining on the premises of another when requested to leave by the owner, the tenant, or the person in possession and control of such premises, or for any person to permit any such conduct or acts in any house or upon any premises owned or possessed by him or her under his or her management or control, when within his or her power to prevent.

(Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

#### **§ 130.03 PUBLIC INTOXICATION.**

(A) It shall be unlawful for any person under the influence of alcohol or any narcotic drug, stimulant, or depressant to be on any street, thoroughfare, or other public place within the city.

(B) It shall likewise be unlawful, for any person under the influence of alcohol or any narcotic drug, stimulant, or depressant in any private house or place to be drunk, turbulent, violent, menacing, or disorderly to such an extent as to jeopardize persons or property or to menace the public peace and safety.

(Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

#### **§ 130.04 LOITERING.**

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**LOITERING.** Remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around; and shall also include the colloquial expression “hanging around”.

**PUBLIC PLACE.** Any place to which the general public has access and a right of resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front, or immediate area, of any store, shop, restaurant, tavern or other place of business, and also public grounds, areas, or parks.

(B) It shall be unlawful for any person to loiter, loaf, wander, stand, or remain idle either alone or in consort with others, in a public place in such manner so as to:

(1) Obstruct any public street, public highway, public sidewalk, or any other public place or building, by hindering or impeding, or tending to hinder or impede, the free and uninterrupted passage of vehicles, traffic, or pedestrians;

(2) Commit in or upon any public street, public highway, public sidewalk, or any other public place, or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property, or with any business lawfully conducted by anyone in or upon, or facing or fronting, any such public street, public highway, public sidewalk, or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon, and thereto; and

(3) Obstruct the entrance to any business establishment, without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent, or person in control or charge of the building or premises.

(Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 130.05 UNLAWFUL ASSEMBLY; FAILING TO DISPERSE.**

(A) It shall be unlawful for any person to participate with two or more others in a course of disorderly conduct:

(1) With a purpose to commit or facilitate the commission of an unlawful act;

(2) With the purpose to prevent or coerce official action; or

(3) When said person or any other participant to the knowledge of the former uses or plans to use a firearm or other dangerous or deadly weapon.

(B) It shall be unlawful for three or more persons participating in a course of disorderly conduct likely to cause substantial harm or serious inconvenience, annoyance, or alarm, to refuse or fail to disperse upon a request or order to disperse issued by a police officer.

(Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

### § 130.06 DISORDERLY CONDUCT.

(A) A person is guilty of disorderly conduct if, with the purpose of causing public inconvenience, annoyance, or alarm, or creating a risk thereof, he or she:

- (1) Engages in fighting or threatening, or in violent or tumultuous behavior;
- (2) Makes unreasonable noise or offensively coarse utterances, gestures, or display, or addresses foul or patently offensive words, language, gestures, things, or acts to any person present; or
- (3) Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose.

(B) **PUBLIC** means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among such places are included public streets, alleys, places, or public buildings, any places of business or amusement while said buildings, places of business, or amusement are open to the public.

(Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

### § 130.07 VAGRANCY.

It shall be unlawful for any person to be upon any street, alley, sidewalk, or public way or place under circumstances which give probable cause to believe the person will participate in an imminent violation of law. It is the intent of this section that there will not be a violation hereof if such person gives a credible account of his or her conduct or presence.

(Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

### § 130.08 OBSTRUCTING PUBLIC STREETS, PLACES, OR BUILDINGS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**LEGAL PRIVILEGE TO DO SO.** Include, by way of illustration, but not limitation, the following as examples: awaiting public transportation in areas designated therefor and persons acting in accordance with a license or permit issued by the Town for construction or other work in, over, on, or under the public way or place.

**OBSTRUCTION.** The interference with or prevention of convenient or reasonable passage or use of the public street, alley, sidewalk, way, place or building, or entrance or doorway into or out of any building which is open to the public by any individual or group of individuals.

**PUBLIC.** Affecting or likely to affect persons in a place to which the public or a substantial group has access, among said places are included public streets, alleys, sidewalks, public buildings, any places of commerce, business, or amusement are open to the public.

**UNLAWFUL.** Construed to cover the following:

(a) One, whether alone or with others, intentionally causes or creates an obstruction; and/or

(b) One, whether alone or with others, causes, creates, or contributes to causing or creating an obstruction where a reasonable man in the same circumstances would be aware that he or she was causing, creating, or contributing to causing or creating an obstruction.

(B) *Obstruction prohibited.* It shall be unlawful for any person, whether alone or with others, without legal privilege to do so, to obstruct vehicular or pedestrian movement on any street, alley, sidewalk, way, place, or doorway or entrance into or out of any building which is open to the public.

(C) *Failure to comply.* If a person requested or ordered by a police officer to move in accordance with this section does not leave the area and moves elsewhere thereafter either alone or with others so as to cause an obstruction of the public street, alley, sidewalk, public way, place or building, or other entrance or doorway into or out of a building open to the public, or sits, lies, or sleeps on the public street, alley, sidewalk, or other public way commits a violation of this section without further request or order by the police officer to move.

(Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 130.09 TRESPASS AND UNAUTHORIZED USE OF PROPERTY PROHIBITED.**

(A) It shall be unlawful for any person to knowingly lodge in, use, or occupy any barn, garage, shed, shop, or other house or building or structure or any automobile, truck, railroad car, or other vehicle without permission of the owner or person entitled to possession.

(B) It shall be unlawful for any person to knowingly lodge in any public way, park, or place.

(C) It shall be unlawful for any person to knowingly in the night time enter upon any privately owned real property which is not open to the use of the public unless he or she has first obtained the consent of the owner or person in possession or control thereof.

(Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 130.10 DAMAGING PROPERTY.**

It shall be unlawful for any person to willfully, maliciously, wantonly, negligently, or in any other manner injure or destroy real property or improvements thereto, or moveable or personal property, belonging to any person, association, partnership, corporation, or other entity, public or private. (Ord. 52, passed 3-3-1971; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

***PUBLIC SAFETY REGULATIONS*****§ 130.30 INDECENT EXPOSURE.**

It is unlawful for a person to knowingly expose his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 3, passed 5-6-1918; Ord. 01-2023, passed 3-13-2023) Penalty, see § 11.02

**§ 130.31 RESERVED.****§ 130.32 SUBTERRANEAN OPENINGS.**

It shall be unlawful for any person to have or keep open any cellar door, pit, or vault or other subterranean opening on any highway or sidewalk or to allow the same to be left open or to be kept in an insecure condition so that passers-by will be in danger of falling into such cellar, pit, vault, or other opening, or to allow any sidewalk in front of the premises opened or occupied by him or her to become or continue to be so broken as to endanger life or limb. (Ord. 3, passed 5-6-1918; Ord. 01-2023, passed 3-13-2023)

**§ 130.33 THROWING STONES AND THE LIKE.**

(A) No person shall throw any stones or other missile upon or at any person in any street, public place, or enclosed or unenclosed ground under a or conviction for each offense as set forth in § 130.99 of this code.

(B) No person shall throw stones or other missiles or in any way deface or injure the windows, walls, or other part of any building or buildings, whether occupied or unoccupied within the Town or in any other way or manner injure awnings, awning parts, fences, enclosures, or other improvements of any character whatever, either private or public property, or fill up, obstruct, or otherwise damage any ditch or ditches lawfully constructed in said Town or injure, mark, or deface any tree, flowers, or trees planted for the ornament or shade of the streets in private lots in said Town; and any person or persons so offending shall be deemed guilty of an offense and, on conviction thereof, shall be fined as set forth in § 130.99 of this code.

(Ord. 3, passed 5-6-1918; Ord. 01-2023, passed 3-13-2023)

**§ 130.34 FALSE ALARMS.**

If any person shall willfully give or make, or cause to be given or made, a false alarm of fire, every such person, on conviction, shall be fined as set forth in § 130.99 of this code.

(Ord. 3, passed 5-6-1918)

**§ 130.35 ASSAULT.**

Any person or persons who shall willfully strike, kick, or shove the person of another in a violent or angry manner shall be deemed guilty of the crime of assault and battery; and upon being convicted thereof, shall be punished by a fine as set forth in § 130.99 of this code.

(Ord. 3, passed 5-6-1918)

**§ 130.36 EXCAVATIONS.**

No Town officer, contractor, or other person in this Town shall make any excavation or dig any hole, drain, or ditch in any highway or thoroughfare without providing, during the night, a temporary fence or suitable obstruction around or in front of such excavation, in order to prevent persons, animals, or vehicles from falling into the same; and every person so offending against the provisions of this section shall be fined for each and every offense, as set forth in § 130.99 of this code.

(Ord. 3, passed 5-6-1918)

**§ 130.37 VEHICLES ON SIDEWALKS.**

Any person who shall ride or drive any vehicles, or heavy machinery upon or across any of the constructed sidewalks in the Town shall be guilty of an offense and, upon conviction, shall be fined as set forth in § 130.99 of this code.

(Ord. 3, passed 5-6-1918)



## **TITLE XV: LAND USAGE**

### **Chapter**

- 150. FLOOD DAMAGE PREVENTION**
- 151. BUILDING REGULATIONS**
- 152. BUILDING CODE**
- 153. ZONING**
- 154. SHIPPING CONTAINERS**



## CHAPTER 150: FLOOD DAMAGE PREVENTION

### Section

#### *General Provisions*

- 150.01 Statutory authorization
- 150.02 Findings of fact
- 150.03 Statement of purpose
- 150.04 Methods of reducing flood losses
- 150.05 Definitions
- 150.06 Application
- 150.07 Basis for establishing the special flood hazard area
- 150.08 Floodplain development permit
- 150.09 Compliance
- 150.10 Conflict of law
- 150.11 Interpretation
- 150.12 Warning and disclaimer of liability

#### *Administration*

- 150.25 Designation of Floodplain Administrator
- 150.26 Duties and responsibilities of the Floodplain Administrator
- 150.27 Permit procedures
- 150.28 Variance procedures

#### *Provisions for Flood Hazard Reduction*

- 150.40 General standards
- 150.41 Specific standards
- 150.42 Standards for areas of shallow flooding (AO/AH Zones)
- 150.43 Floodways
- 150.44 Alteration of a watercourse
- 150.45 Properties removed from the floodplain by fill
- 150.46 Standards for subdivision proposals
- 150.47 Standards for critical facilities
  
- 150.99 Penalty

**GENERAL PROVISIONS****§ 150.01 STATUTORY AUTHORIZATION.**

The State Legislature has, in C.R.S. Title 29, Article 20, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town does hereby adopt the following floodplain management regulations.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.02 FINDINGS OF FACT.**

(A) The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety, and general welfare of the public.

(B) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.03 STATEMENT OF PURPOSE.**

It is the purpose of this section to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to critical facilities, infrastructure, and other public facilities such as water, sewer, and gas mains; electric and communications stations; and streets and bridges located in floodplains;

(F) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(G) Ensure that potential buyers are notified that property is located in a flood hazard area.  
(Ord. 01-2017, passed 4-10-2017)

**§ 150.04 METHODS OF REDUCING FLOOD LOSSES.**

In order to accomplish its purposes, this section uses the following methods:

(A) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or cause excessive increases in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging, and other development which may increase flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.  
(Ord. 01-2017, passed 4-10-2017)

**§ 150.05 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**100-YEAR FLOOD.** A flood having a recurrence interval that has a 1% chance of being equaled or exceeded during any given year (1% annual chance flood). The term **1% CHANCE FLOOD** is synonymous with the term **100-YEAR FLOOD**. The term does not imply that the flood will necessarily happen once every 100 years.

**100-YEAR FLOODPLAIN.** The area of land susceptible to being inundated as a result of the occurrence of a 100-year flood.

**500-YEAR FLOOD.** A flood having a recurrence interval that has a 0.2% chance of being equaled or exceeded during any given year (0.2% chance annual flood). The term does not imply that the flood will necessarily happen once every 500 years.

**500-YEAR FLOODPLAIN.** The area of land susceptible to being inundated as a result of the occurrence of a 500-year flood.

**ADDITION.** Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

**ALLUVIAL FAN FLOODING.** A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions, and other stream processes.

**AREA OF SHALLOW FLOODING.** A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a 1% chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**BASE FLOOD ELEVATION (BFE).** The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

**BASEMENT.** Any area of a building having its floor sub-grade (below ground level) on all sides.

**CHANNEL.** The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

**CHANNELIZATION.** The artificial creation, enlargement, or realignment of a stream channel.

**CODE OF FEDERAL REGULATIONS (C.F.R.).** The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into 50 titles that represent broad areas subject to federal regulation.

**COMMUNITY.** Any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, Towns, unincorporated areas in the counties, Native American tribes, and drainage and flood control districts.

**CONDITIONAL LETTER OF MAP REVISION (CLOMR).** FEMA's comment on a proposed project which does not revise an effective floodplain map that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

**CRITICAL FACILITY.** A structure or related infrastructure, but not the land on which it is situated, as specified in § 150.47, that if flooded may result in significant hazards to public health and safety or

interrupt essential services and operations for the community at any time before, during, and after a flood. See § 150.47.

**DEVELOPMENT.** Any human-made change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**DFIRM DATABASE.** A database, usually spreadsheets containing data and analyses that accompany DFIRMs. The FEMA mapping specifications and guidelines outline requirements for the development and maintenance of DFIRM databases.

**DIGITAL FLOOD INSURANCE RATE MAP (DFIRM).** FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

**ELEVATED BUILDING.** A non-basement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEDERAL REGISTER.** The official daily publication for rules, proposed rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

**FEMA.** Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

**FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of water from channels and reservoir spillways;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; or

(3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

***FLOOD CONTROL STRUCTURE.*** A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

***FLOOD INSURANCE RATE MAP (FIRM).*** An official map of a community on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

***FLOOD INSURANCE STUDY (FIS).*** The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine base flood elevations for some areas.

***FLOODPLAIN* or *FLOOD-PRONE AREA.*** Any land area susceptible to being inundated as the result of a flood, including the area of land over which flood water would flow from the spillway of a reservoir.

***FLOODPLAIN ADMINISTRATOR.*** The community official designated by title to administer and enforce the floodplain management regulations.

***FLOODPLAIN DEVELOPMENT PERMIT.*** A permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and these floodplain management regulations.

***FLOODPLAIN MANAGEMENT.*** The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

***FLOODPLAIN MANAGEMENT REGULATIONS.*** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

***FLOOD-PROOFING.*** Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**FLOODWAY (REGULATORY FLOODWAY).** The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of map revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

**FREEBOARD.** The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

**FUNCTIONALLY DEPENDENT USE.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE.** Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved State program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in States without approved programs.

**LETTER OF MAP REVISION (LOMR).** FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA).

**LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** FEMA's modification of the special flood hazard area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

**LEVEE.** A human-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a **LEVEE** structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 C.F.R. § 65.10.

**LEVEE SYSTEM.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes, which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The **LOWEST FLOOR** is a determinate for the flood insurance premium for a building, home, or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access, or storage in an area other than a basement area is not considered a building's **LOWEST FLOOR**, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of 44 C.F.R. § 60.3 of the National Flood insurance Program regulations.

**MANUFACTURED HOME.** A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MATERIAL SAFETY DATA SHEET (MSDS).** A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, and the like), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

**MEAN SEA LEVEL.** For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP).** FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and

Emergency Assistance Act. The *NFIP* has applicable federal regulations promulgated in C.F.R. Title 44. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

***NEW MANUFACTURED HOME PARK OR SUBDIVISION.*** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

***NO-RISE CERTIFICATION.*** A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A ***NO-RISE CERTIFICATION*** must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

***PHYSICAL MAP REVISION (PMR).*** FEMA's action whereby one or more map panels are physically revised and republished. A ***PMR*** is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

***RECREATIONAL VEHICLE.*** A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

***SPECIAL FLOOD HAZARD AREA.*** The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year, i.e., the 100-year floodplain.

***START OF CONSTRUCTION.*** The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual ***START*** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For

a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE.** A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure just prior to when the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**THRESHOLD PLANNING QUANTITY (TPQ).** A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

**VARIANCE.** A grant of relief to a person from the requirement of this section when specific enforcement would result in unnecessary hardship. A **VARIANCE**, therefore, permits construction or development in a manner otherwise prohibited by this section. (For full requirements see 44 C.F.R. § 60.6 of the National Flood Insurance Program regulations.)

**VIOLATION.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 C.F.R. §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION.** The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.  
(Ord. 01-2017, passed 4-10-2017)

**§ 150.06 APPLICATION.**

This section shall apply to all special flood hazard areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the Town.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREA.**

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for Sedgwick County, Colorado and Incorporated Areas,” (FIS) dated May 18, 2021 with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this section. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this section and may be supplemented by studies designated and approved by the Board of Trustees. The Floodplain Administrator shall keep a copy of the FIS, DFIRMs, FIRMs, and/or FBFMs on file and available for public inspection.

(Ord. 01-2017, passed 4-10-2017; Ord. 02-2021, passed 3-8-2021)

**§ 150.08 FLOODPLAIN DEVELOPMENT PERMIT.**

A floodplain development permit shall be required to ensure conformance with the provisions of this section.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.09 COMPLIANCE.**

No structure or land shall hereafter be located, altered, or have its use changed within the special flood hazard area without full compliance with the terms of this chapter and other applicable regulations. Nothing herein shall prevent the Board of Trustees from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the State’s Water Conservation Board and the National Flood Insurance Program.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.10 CONFLICT OF LAW.**

This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this section and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.11 INTERPRETATION.**

In the interpretation and application of this section, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under State statutes.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.12 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes. This section does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

(Ord. 01-2017, passed 4-10-2017)

***ADMINISTRATION*****§ 150.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Zoning Administrator or his or her designee is hereby appointed as Floodplain Administrator to administer, implement, and enforce the provisions of this section and other appropriate sections of C.F.R. Title 44 (National Flood Insurance Program Regulations) pertaining to floodplain management.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.26 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(A) Maintain and hold open for public inspection all records pertaining to the provisions of this section, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any flood-proofing certificate required by § 150.27;

(B) Review, approve, or deny all applications for floodplain development permits required by adoption of this section;

(C) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding;

(D) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, State, or local governmental agencies (including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required;

(E) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this section, including proper elevation of the structure;

(F) Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation;

(G) When base flood elevation data has not been provided in accordance with § 150.07, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data and Floodway data available from a federal, State, or other source, in order to administer the provisions of §§ 150.40 to 150.47;

(H) For waterways with base flood elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community;

(I) Under the provisions of 44 C.F.R. Chapter 1, § 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of 44 C.F.R. § 65.12 and receives FEMA approval;

(J) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the State's Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA; and

(K) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.27 PERMIT PROCEDURES.**

(A) Application for a floodplain development permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to special flood hazard area.

(B) Additionally, the following information is required:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any non-residential structure shall be flood-proofed;

(3) A certificate from a registered Colorado Professional Engineer or architect that the non-residential flood-proofed structure shall meet the flood-proofing criteria of § 150.41(B);

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

(5) Maintain a record of all such information in accordance with § 150.26. Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this section and the following relevant factors:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(c) The danger that materials may be swept onto other lands to the injury of others;

(d) The compatibility of the proposed use with existing and anticipated development;

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

(g) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(h) The necessity to the facility of a waterfront location, where applicable;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

(j) The relationship of the proposed use to the comprehensive plan for that area.  
(Ord. 01-2017, passed 4-10-2017)

**§ 150.28 VARIANCE PROCEDURES.**

(A) The Appeal Board, which shall be the Town's Board of Adjustment, shall hear and render judgment on requests for variances from the requirements of this section.

(B) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this section.

(C) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(E) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in § 150.27 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(F) Upon consideration of the factors noted above and the intent of this section, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this section as stated in § 150.03.

(G) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(H) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(I) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

(a) Showing a good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(J) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) The criteria outlined in divisions (A) to (I) above are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. 01-2017, passed 4-10-2017)

### ***PROVISIONS FOR FLOOD HAZARD REDUCTION***

#### **§ 150.40 GENERAL STANDARDS.**

In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements.

(A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

(D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(E) All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(F) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

(H) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.41 SPECIFIC STANDARDS.**

In all special flood hazard areas where base flood elevation data has been provided as set forth in §§ 150.07, 150.26(G), or 150.46, the following provisions are required.

(A) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(B) *Non-residential construction.*

(1) With the exception of critical facilities, outlined in § 150.47, new construction and substantial improvements of any commercial, industrial, or other non-residential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to

the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(2) A registered Colorado Professional Engineer or Architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in § 150.27.

(C) *Enclosures.*

(1) New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.

(2) Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or Architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(b) The bottom of all openings shall be no higher than one foot above grade; and

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(D) *Manufactured homes.*

(1) All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which manufactured home has incurred substantial damage as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(2) All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the provisions of division (D)(1) above shall be elevated so that either:

(a) The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(E) *Recreational vehicles.*

(1) All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

(a) Be on the site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use; or

(c) Meet the permit requirements of § 150.27 and the elevation and anchoring requirements for manufactured homes in division (D) above.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(F) *Prior approved activities.* Any activity for which a floodplain development permit was issued by the Town or a CLOMR was issued by FEMA prior to January 8, 2014 may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this section if it meets such standards.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.42 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES).**

(A) Located within the special flood hazard area established in § 150.07 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident.

(B) Such flooding is characterized by ponding or sheet flow, therefore, the following provisions apply.

(1) *Residential construction.* All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the

highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, Architect, or Land Surveyor. Such certification shall be submitted to the Floodplain Administrator.

(2) *Non-residential construction.*

(a) With the exception of critical facilities, outlined in § 150.47, all new construction and substantial improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or Architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in § 150.27, are satisfied.

(b) Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.  
(Ord. 01-2017, passed 4-10-2017)

### § 150.43 FLOODWAYS.

(A) Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of floodway in § 150.05).

(B) Located within special flood hazard area established in § 150.07 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply.

(1) Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.

(2) If division (B)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 150.40 to 150.47.

(3) Under the provisions of 44 C.F.R. Chapter 1, § 65.12 of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.  
(Ord. 01-2017, passed 4-10-2017)

**§ 150.44 ALTERATION OF A WATERCOURSE.**

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply.

(A) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

(B) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

(C) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, State, and local floodplain rules, regulations, and ordinances.

(D) Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.

(E) All activities within the regulatory floodplain shall meet all applicable federal, State, and Town floodplain requirements and regulations.

(F) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a zero-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with § 150.43.

(G) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.  
(Ord. 01-2017, passed 4-10-2017)

**§ 150.45 PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL.**

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA

Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following.

(A) *Residential construction*. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill.

(B) *Non-residential construction*. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.  
(Ord. 01-2017, passed 4-10-2017)

#### **§ 150.46 STANDARDS FOR SUBDIVISION PROPOSALS.**

(A) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.

(B) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of §§ 150.08, 150.27, and 150.40 to 150.47.

(C) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to §§ 150.08 and 150.27.

(D) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(E) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.  
(Ord. 01-2017, passed 4-10-2017)

#### **§ 150.47 STANDARDS FOR CRITICAL FACILITIES.**

A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the State's Rules and Regulations for Regulatory Floodplains, that if flooded may

result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during, and after a flood.

(A) *Classification of critical facilities.* It is the responsibility of the Board of Trustees to identify and confirm that specific structures in their community meet the following criteria.

(1) Critical facilities are classified under the following categories: essential services; hazardous materials; at-risk populations; and vital to restoring normal services.

(a) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

1. These facilities consist of:

a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers);

b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);

c. Designated emergency shelters;

d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);

e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations, and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

f. Air transportation lifelines [airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars)].

2. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

3. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Board of Trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-

year floodplain or are compliant with the provisions of this subchapter, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Board of Trustees on an as-needed basis upon request.

(b) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials.

1. These facilities may include:

- a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- b. Laboratories containing highly volatile, flammable, explosive, toxic, and/or water-reactive materials;
- c. Refineries;
- d. Hazardous waste storage and disposal sites; and
- e. Above ground gasoline or propane storage or sales centers.

2. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as extremely hazardous substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification”, 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards”, 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this section, but exclude later amendments to or editions of the regulations.

3. Specific exemptions to this category include:

- a. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use;

b. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public; and

c. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

4. These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this subchapter.

(c) At-risk population facilities include medical care, congregate care, and schools.

1. These facilities consist of:

a. Elder care (nursing homes);

b. Congregate care serving 12 or more individuals (day care and assisted living);

and

c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

(d) Facilities vital to restoring normal services including government operations.

1. These facilities consist of:

a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance, and equipment centers); and

b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

2. These facilities may be exempted if it is demonstrated to the Board of Trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this section, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Board of Trustees on an as-needed basis upon request.

(B) *Protection for critical facilities.*

(1) All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities.

(2) For the purposes of this section, protection shall include one of the following:

(a) Location outside the special flood hazard area; or

(b) Elevation of the lowest floor or flood-proofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the base flood elevation.

(C) *Ingress and egress for new critical facilities.* New critical facilities shall, when practicable as determined by the Board of Trustees, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

(Ord. 01-2017, passed 4-10-2017)

**§ 150.99 PENALTY.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations. Violation of the provisions of this section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be punished as provided in § 11.02 of this Code. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 01-2017, passed 4-10-2017; Ord. 01-2023, passed 3-13-2023)

## CHAPTER 151: BUILDING REGULATIONS

### Section

- 151.01 Building within fire limits
- 151.02 Building materials
- 151.03 Permitted structures
- 151.04 Buildings damaged by fire
- 151.05 Concrete walls
- 151.06 Excavation regulations
- 151.07 Combustible materials
- 151.08 Noncompliance declared a nuisance
  
- 151.99 Penalty

### § 151.01 BUILDING WITHIN FIRE LIMITS.

All that portion of the Town embraced in the following described limits shall hereafter be known as and be the fire limits proper of said Town, and no building of any description shall hereafter be erected within said fire limits, without first obtaining written permission authorizing the same from the Board of Trustees of said Town; beginning at the point of intersection of the centerline of the alley, running parallel to and between Main Avenue and West Avenue; thence north along the said centerline of said alley to the point of intersection of said line with the centerline of Third Street; thence east along the centerline of said Third Street to the intersection of said line with the centerline of the alley running parallel with and between Main Avenue and East Avenue; thence south along said centerline of said alley to the point of intersection of said line with the centerline of Railroad Street; thence in a southwesterly direction along the centerline of said Railroad Street to the place of beginning.

(Ord. 19, passed 6-2-1919)

### § 151.02 BUILDING MATERIALS.

Every building hereafter erected or enlarged within the fire limits shall be enclosed on all sides with walls constructed wholly of stone, well burned brick, terra cotta, concrete, or other equivalent incombustible materials; and shall have the roof, top, and sides of all roof structures, including dormer windows, covered with incombustible material. All cornices shall be of incombustible material.

(Ord. 19, passed 6-2-1919)

**§ 151.03 PERMITTED STRUCTURES.**

(A) No frame or wooden structure shall hereafter be built within the fire limits as given herein, or within the fore limits hereafter established, except the following; and all roofs placed upon such buildings or structures shall have an incombustible covering:

(1) Temporary one story frame buildings for use of contractors;

(2) One story sheds not over 15 feet high, open on the long side, with sides covered with incombustible material, and with an area not exceeding 500 square feet. A wooded fence shall not be used to form the back or sides of said shed;

(3) Wooden fences not over ten feet high;

(4) Piazzas on balconies not exceeding ten feet in width, nor extending more than three feet above the second story floor beams. No such structure shall extend beyond the lot line, or be joined to any similar structure of another building;

(5) Bay windows when covered with incombustible material; and

(6) Small outhouses not exceeding 36 square feet in area and eight feet in height.

(B) Wooden sheds or outhouses shall not be located within five feet of any lot line, nor less than ten feet from any other building over one story high.

(Ord. 19, passed 6-2-1919)

**§ 151.04 BUILDINGS DAMAGED BY FIRE.**

Any existing frame building within the fire limits, which may hereafter be damaged by fire, decay, or otherwise to an amount greater than one-half of its present value, exclusive of the foundation, shall not be repaired or rebuilt, but shall be removed.

(Ord. 19, passed 6-2-1919)

**§ 151.05 CONCRETE WALLS.**

(A) Brick or reinforced concrete walls shall not be of less thickness than as follows: one story buildings, eight inches; two story building, 12 inches for the first story and eight inches for the first story, 12 inches for the second story, and eight inches for the third story.

(B) Stone walls shall not be of a less thickness than as follows: one story, 16 inches; two story, 20 inches for the first story and 16 inches for the second story; three story, 24 inches for the first story, 20 inches for the second story, and 16 inches for the third story.

(C) All party walls shall extend not less than one foot above the roof at any point.

(D) The ends of all joists, beams, and other timbers on outside or party walls shall be separated at least four inches from each other with stone or brick laid in mortar or concrete between.

(E) All end and party walls, except walls facing on streets and alleys, shall extend above the sheathing of the roof at least 12 inches, and in no case shall the planking or sheathing of the roof extend across any party wall or end wall, except the wall facing the street or alley.

(Ord. 19, passed 6-2-1919)

**§ 151.06 EXCAVATION REGULATIONS.**

(A) Any area desired to be built in connection with buildings may, upon permission of the Board of Trustees if not to be open and to be built covered with iron grates, be granted, if on a level with the sidewalks at the points desired, provided the same do not project more than two feet from the street line.

(B) Coal holes and areas not open may be placed at projection within a line upon grade and in alleys within said fire limits not exceeding three feet from the alley line, but so as not to interfere with gutters, sewer pipes, or natural drainage therein, but no areas, coal holes, or any excavation whatever shall be made or begun in or under any street or alley until a petition therefor has been filed with the Board of Trustees. The Board of Trustees shall require such barriers and danger signals to be used, and may exact such indemnity bonds during the construction and maintenance of said work as, in its judgment, will insure public safety.

(Ord. 19, passed 6-2-1919)

**§ 151.07 COMBUSTIBLE MATERIALS.**

No wooden building within the fire limits herein established, or within the fire limits hereafter established, shall be raised, enlarged, or removed to any place within such fire limits, nor shall any wooden building be removed into such fire limits, nor shall any wooden building be removed into such fire limits; a building with wood frame, the outside of which shall be covered with sheet iron or other metal shall be deemed a wooden building for the purposes of this chapter; a building with a wooden frame veneered with brick shall be deemed a fireproof building for the purposes of this chapter. And no person, persons, association of persons, or any corporation shall pile or stack or cause to be piled or stacked or otherwise kept therein, outside of fireproof buildings as herein defined, any stacks of hay, straw, manure, lumber, wood, or other combustible material within said fire limits, and no person or persons, association of persons, or any corporation, or any agent for any of them shall keep or caused to kept any lumber yard or wood yard of piles of lumber or wood within the fire limits, after a period of 90 days after the passage of the ordinance codified herein, unless all of the same are confined, stored, and kept within fireproof buildings as defined in this chapter.

(Ord. 19, passed 6-2-1919)

**§ 151.08 NONCOMPLIANCE DECLARED A NUISANCE.**

Any wooden building which may be erected, enlarged, or removed or be in progress of erection, enlargement, or removal, contrary to the provisions of this chapter shall be deemed a nuisance, and it shall be the duty of the Mayor, after due notice, to the owner or builder thereof or the agent of either in possession or charge of such building, in writing requesting that the same be abated, to commence suit in the name of the Town for the collection of the fines and penalties provided for by this chapter.  
(Ord. 19, passed 6-2-1919)

**§ 151.99 PENALTY.**

Any person or persons, association of persons, or corporation guilty of a violation of any of the provision of this chapter shall, upon conviction thereof, forfeit and pay to said Town a sum of not less than \$25 nor more than \$300 and costs of suit for each offense; and a penalty of not less than \$25 nor more than \$100 for each week any such building, hay stack, straw stack, manure pile, lumber yard or pile, wood yard or pile, prohibited by this chapter, shall be kept and remain within the fire limits.  
(Ord. 19, passed 6-2-1919)

**CHAPTER 152: BUILDING CODE**

*[Reserved]*



## **CHAPTER 153: ZONING**

### Section

153.01 Adopted by reference

### **§ 153.01 ADOPTED BY REFERENCE.**

The revised comprehensive zoning ordinance, copies of which are on file in the office of the Town Clerk, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Ord. passed 10-11-2002; Ord. 04-2017, passed - -2017; Ord. 09-2019, passed 10-14-2019; Ord. 04-2021, passed 12-13-2021)



## CHAPTER 154: SHIPPING CONTAINERS

### Section

- 154.01 Definition
- 154.02 Permanent shipping containers prohibited
- 154.03 Temporary shipping containers allowed
- 154.04 Exception for governmental entities
- 154.05 Nonconforming uses
  
- 154.99 Penalty

### § 154.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***SHIPPING CONTAINER.*** Includes a cargo container, freight container, portable storage container, cargo box, sea van, or sea crate or any other industrial, standardized, reusable portable vessel commonly used on ocean-going vessels that was originally, specifically, or formally designed for use in the packing, shipping, or transportation of goods or commodities, and designed to be mounted on rail car, truck, or ship.

(Ord. 06-2017, passed 10-16-2017)

### § 154.02 PERMANENT SHIPPING CONTAINERS PROHIBITED.

Except as provided in §§ 154.03 and 153.04, it shall be unlawful for any person or business to keep, store, or park a shipping container on any public or private property in any zoning district within the town.

(Ord. 07-2019, passed 6-10-2019) Penalty, see § 154.99

### § 154.03 TEMPORARY SHIPPING CONTAINERS ALLOWED.

(A) A person or business may keep, store, or park one shipping container on his, her, or its property for a period not to exceed 90 days under the following circumstances.

(1) The shipping container is being used in connection with construction related activities during the time period a building permit has been issued and is in effect, which shipping container shall be located entirely on private property at the address for which the building permit was issued and which shipping container shall be removed prior to the issuance of a certificate of occupancy.

(2) The shipping container is being used for emergency storage of household materials, including, but not limited to, furniture, appliances, household electronics, clothing, and other items of personal property, when a structure becomes uninhabitable due to fire, flood, tornado, or similar natural disaster.

(B) The following rules shall apply to the temporary use of storage containers.

(1) Prior to the placement of the storage container within the town, a person shall apply for and obtain a shipping container permit from the Board of Trustees. The application shall be on a form prescribed by the town and shall be accompanied by a fee in an amount set by resolution of the town Board from time to time.

(2) Storage containers shall be safe, structurally sound, in good repair and placed on a stable surface. Any container that becomes unsafe, unstable, or otherwise dangerous, as determined by the town, shall be immediately repaired or removed at the owner's expense.

(3) Storage containers shall not be placed in a manner that impedes access to a street, alley, sidewalk, public right-of-way, or a public utility or drainage easement.

(4) Storage containers shall not impede site lines required for safe traffic flow.

(C) The Board of Trustees may renew a shipping container permit one time for an additional period not to exceed 90 days.

(Ord. 06-2017, passed 10-16-2017)

#### **§ 154.04 EXCEPTION FOR GOVERNMENTAL ENTITIES.**

(A) Subject to approval by the Board of Trustees, a governmental entity, including counties, municipalities, and special districts, may keep, store, or park one or more shipping containers on its property when the shipping container is being used in connection with the performance of such entity's governmental functions.

(B) The following rules shall apply to the use of storage containers by governmental entities.

(1) Storage containers shall be safe, structurally sound, in good repair, and placed on a stable surface. Any container that becomes unsafe, unstable, or otherwise dangerous, as determined by the town, shall be immediately repaired or removed at the governmental entity's expense.

(2) Storage containers shall not be placed in a manner that impedes access to a street, alley, sidewalk, public right-of-way, or a public utility or drainage easement.

(3) Storage containers shall not impede site lines required for safe traffic flow.

(4) The Board of Trustees is authorized to impose conditions on a governmental entity's use of storage containers, including, but not limited to, limiting the number of storage containers authorized, screening requirements, and limiting the number of storage containers allowed.

(Ord. 07-2019, passed 6-10-2019)

**§ 154.05 NONCONFORMING USES.**

The Board of Trustees recognizes and acknowledges that any shipping containers located and lawfully being used as an accessory structure within the territorial boundaries of the town as of the effective date of the ordinance codified herein shall be permitted to continue as nonconforming uses governed by and subject to the requirements and other limitations of § 4 of the town's official zoning ordinance (the "zoning ordinance"). In order for an existing shipping container to qualify as a nonconforming use, the shipping container must be in compliance with all provisions of the zoning ordinance and other town ordinances, including those related to setbacks, building heights, maximum lot coverage, and the like.

(Ord. 06-2017, passed 10-16-2017)

**§ 154.99 PENALTY.**

(A) Any person convicted of violating this chapter may be punished as set forth in § 11.02 of this Code.

(B) The keeping, storage, or parking of a shipping container in Town in violation of the terms of §§ 154.01 to 154.05 may be enjoined by the Town in an action brought in a court of competent jurisdiction.

(Ord. 01-2023, passed 3-13-2023)



## **TABLE OF SPECIAL ORDINANCES**

Table

- I. AGREEMENTS**
- II. FRANCHISES**
- III. PROPERTY TRANSFERS**
- IV. CONSTRUCTION REGULATIONS**
- V. ZONING**



**TABLE I: AGREEMENTS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
91-1	4-1-1991	Agreement for 911 telephone services
2000-01	5-1-2000	Agreement to sell lot 5, block 8 of the original town
02-2005	9-12-2005	Easement agreement with Glenn Toyne and Sandra Toyne
01-2012	11-12-2012	Lease agreement with PC Telcorp, Inc.
03-2019	6-5-2019	Lease agreement for 120 Main Avenue



**TABLE II: FRANCHISES**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
32	10-4-1926	Granting power franchise to the Public Service Company of Colorado
35	11-3-1930	Granting a natural gas franchise to Eastern Colorado Gas Company
40	11-1-1937	Granting telephone franchise to the Mountain States Telephone and Telegraph Company
43	6-1-1953	Granting electric system franchise to Highline Electric Associations
83-1	4-4-1983	Granting electric system franchise to Highline Electric Associations
90-1	8-6-1990	Granting a cable franchise to Cable USA Inc.
2000-03	8-7-2000	Granting a cable franchise to Cable USA Inc.
01-2008	7-7-2008	Granting electric system franchise to Highline Electric Associations
02-2011	7-11-2011	Granting cable franchise to PC Telcorp, Inc.



**TABLE III: PROPERTY TRANSFERS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
44	3-5-1956	Detachment of real estate from the town
45	4-1-1957	Detachment of real estate from the town
54	2-4-1974	Annexation of ten acres



**TABLE IV: CONSTRUCTION REGULATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
25	8-2-1920	Establishing the grades of certain sidewalks in the town



**TABLE V: ZONING**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
30	9-8-1926	Authorizing the opening and extension of a street
04-2016	12-19-2016	Rezoning original town block 1, lots 13-24 and block 2, lots 6-12
03-2017	5-1-2017	Rezoning original town block 5, lots 19-22



## **PARALLEL REFERENCES**

References to Colorado Revised Statutes  
References to Ordinances



## REFERENCES TO COLORADO REVISED STATUTES

<i>C.R.S. Reference</i>	<i>Code Section</i>
10-4-601	71.17
12-43.3-302	112.008
12-43.3-310(14)	112.008
13-10-102(3)	30.03
13-10-112(2)	110.13, 112.102, 112.128, 112.152
13-10-113	11.02
16-2-201	70.99
Title 16, Article 18.5	70.99
24-5-101	112.006
24-5-101(2)	112.036
24-10-101 et seq.	112.015, 112.046
24-76.5-101 et seq.	112.035
24-76.5-103(4)	112.035
Title 25, Article 1-114 and Article 1-114.1	50.26
25-14-207	30.01
Title 29, Article 2	30.33
Title 29, Article 20	150.01
30-15-401(4), (5), and (7)(a)	51.03
31-4-307	31.99
Title 31, Article 16, Parts 1 and 2	70.01
31-20-105	30.31, 112.100, 112.126, 112.150
31-20-106	30.31
33-14.5-101(3)	71.15
35-5.5-101	10.15
35-5.5-101 et seq.	91.01
35-80-101	90.02
Title 39, Article 21	30.33
39-26-102	30.33
39-26-102(4.5)	30.33
39-26-707(1)(e)	30.33
39-28.8-101(1)	112.115
39-28.8-101(1.5)	112.115
39-28.8-101(2.5)	112.115

**Sedgwick - Parallel References**

<i>C.R.S. Reference</i>	<i>Code Section</i>
39-28.8-101(7)	112.115
39-28.8-101(8)	112.115
39-28.8-101(13)	112.115
39-28.8-101(14)	112.115
39-28.8-101(15)	112.115
Title 42	71.17
42-1-102(39.5)	71.15
42-2-127	70.99
42-2-127(5)	70.99
42-2-127(5.5)	70.99
Title 42, Article 3	71.15
Title 44, Article 10	112.001, 112.030, 112.060

## REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2	5-6-1918	31.45 - 31.47
3	5-6-1918	130.30, 130.32 - 130.37
4	5-6-1918	31.99
1	5-18-1918	10.18
11	6-3-1918	31.01 - 31.04, 31.08
14	3-3-1919	30.30
19	6-2-1919	151.01 - 151.08, 151.99
23	7-15-1920	92.01 - 92.07
24	7-15-1920	92.20 - 92.30
25	8-2-1920	TSO IV
26	1-9-1922	31.99
27	1-9-1922	110.99
28	7-3-1922	50.01 - 50.05, 50.09, 50.12
30	9-8-1926	TSO V
32	10-4-1926	TSO II
35	11-3-1930	TSO II
40	11-1-1937	TSO II
43	6-1-1953	TSO II
44	3-5-1956	TSO III
45	4-1-1957	TSO III
48	6-1-1959	72.01
52	3-3-1971	130.01 - 130.10
54	2-4-1974	TSO III
55	2-25-1974	52.01 - 52.02
59	7-19-1978	90.20, 90.22 - 90.24
83-1	4-4-1983	TSO II
85-1	3-4-1985	30.33
90-1	8-6-1990	TSO II
91-1	4-1-1991	TSO I
2000-01	5-1-2000	TSO I
2000-03	8-7-2000	TSO II
-	10-11-2002	153.01
2-2004	2-2-2004	30.19

## Sedgwick - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
02-2005	9-12-2005	TSO I
01-2006	1-9-2006	30.02
02-2006	1-25-2006	30.15 - 30.18
07-2006	7-3-2006	111.25 - 111.27
08-2006	8-7-2006	30.01
10-2006	9-11-2006	30.03
01-2008	7-7-2008	TSO II
02-2008	11-3-2008	30.32
03-2008	12-1-2008	51.01 - 51.02, 51.04 - 51.07
-	2-2-2009	51.03
01-2009	7-6-2009	30.31
02-2009	8-3-2009	31.08
02-2010	2-1-2010	110.01 - 110.15, 110.99
03-2010	12-13-2010	112.001 - 112.018
01-2011	1-10-2011	70.01 - 70.02, 70.99
02-2011	7-11-2011	TSO II
03-2011	12-12-2011	91.01 - 91.08
01-2012	11-12-2012	TSO I
01-2016	2-8-2016	112.115 - 112.119, 112.121, 112.131
02-2016	10-11-2016	112.030 - 112.048
3-2016	10-11-2016	71.15 - 71.21
-2016	10-11-2016	112.049
04-2016	12-19-2016	TSO V
01-2017	4-10-2017	150.01 - 150.12, 150.25 - 150.28, 150.40 - 150.47, 150.99
03-2017	5-1-2017	TSO V
04-2017	- -2017	153.01
06-2017	10-16-2017	110.99, 154.01, 154.03, 154.05
01-2018	4-9-2018	90.01 - 90.09
1-2020	1-14-2019	112.115 - 112.116
01-2019	4-8-2019	50.25 - 50.33
02-2019	4-8-2019	111.01 - 111.03, 111.05 - 111.14
04-2019	5-14-2019	112.060 - 112.077
03-2019	6-5-2019	TSO I
07-2019	6-10-2019	154.02, 154.04
06-2019	7-8-2019	111.04, 111.06, 111.13
08-2019	9-11-2019	71.01
10-2019	9-11-2019	112.032, 112.035 - 112.036, 112.039

## References to Ordinances

7

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
09-2019	10-14-2019	153.01
2-2020	1-14-2020	112.035
3-2020	1-14-2020	112.090 - 112.106
04-2020	2-11-2020	112.140 - 112.156
05-2020	5-11-2020	31.75 - 31.80, 31.99
02-2021	3-8-2021	150.07
03-2021	9-13-2021	70.02
04-2021	12-13-2021	153.01
01-2023	3-13-2023	10.17, 10.19, 11.02, 11.03, 30.33, 31.07, 31.46, 31.99, 50.05, 50.15, 50.16, 52.01, 52.04, 70.02, 70.99, 71.01, 71.17, 71.18, 90.06 - 90.08, 90.21 - 90.23, 91.02, 91.03, 92.07, 92.24, 92.28, 92.30, 110.99, 111.05, 111.08, 111.13, 112.018, 112.049, 112.077, 112.106, 112.131, 112.156, 130.01 - 130.10, 130.30, 130.32, 130.33, 150.99, 154.99



## **INDEX**



## INDEX

ACTING MAYOR, 31.05

AGREEMENTS, TSO I

ALCOHOL LICENSING (See also BUSINESS LICENSING REGULATIONS)

Application requirements, 111.62

Licensing authority, 111.61

State laws to apply, 111.60

ANIMALS

Dogs

Definitions, 90.01

Excessive number prohibited, 90.04

Impoundment, 90.09

Improper care of dogs; cruelty and neglect, 90.05

Leash law; running at large, 90.03

Licensing and vaccination, 90.02

Ownership of dangerous dogs, 90.06

Quarantine, 90.08

Unlawful ownership of vicious dogs, 90.07

Farm Animals

Definitions, 90.20

Failure to abate nuisances, 90.24

Failure to keep animals secure and restrained, 90.22

Keeping of livestock and poultry, 90.21

Removing waste materials, 90.23

ATTORNEY, TOWN, 31.08

BOARD OF TRUSTEES

Board of Trustees, 31.49

Definitions, 31.75

Exceptions to this subchapter, 31.80

Order of business for meetings, 31.47

Regular meetings, 31.45

**BOARD OF TRUSTEES (Cont'd)**

- Relationship of the Board of Trustees to Town staff, 31.79
- Responsibilities of all elected officials, 31.78
- Responsibilities of the Mayor, 31.76
- Responsibilities of the Trustees, 31.77
- Special meetings, 31.46
- Structure of government, 31.48

**BUILDING REGULATIONS**

- Building materials, 151.02
- Building within fire limits, 151.01
- Buildings damaged by fire, 151.04
- Combustible materials, 151.07
- Concrete walls, 151.05
- Excavation regulations, 151.06
- Noncompliance declared a nuisance, 151.08
- Penalty, 151.99
- Permitted structures, 151.03

**BUSINESS LICENSING REGULATIONS**

- Applications, 111.05
- Conducting business without license deemed unlawful, 111.03
- Definitions, 111.02
- Denial, 111.08
- Exempt activities, 111.04
- Investigation and issuance, 111.07
- License contents, 111.09
- License nontransferable, 111.11
- License required for each place of business; posting and exhibition, 111.10
- License to Sell Alcohol
  - Application requirements, 111.62
  - Licensing authority, 111.61
  - State laws to apply, 111.60
- Licenses fee; term, 111.06
- Outdoor Vendors
  - Definition, 111.26
  - License fees, 111.27
  - License required, 111.25

BUSINESS LICENSING REGULATIONS (Cont'd)

- Purpose, 111.01
- Renewals, 111.12
- Return of fees, 111.14
- Suspension or revocation, 111.13

BUSINESSES, GENERALLY

- Lodging Occupation Tax
  - Audit of records, 110.06
  - Collection of tax, 110.05
  - Definitions, 110.02
  - Depositions, 110.14
  - Exemptions, 110.04
  - Forms and regulations, 110.09
  - Hearings, subpoenas, and witness fees, 110.13
  - Imposition of tax, 110.03
  - Purpose, 110.01
  - Recovery of unpaid tax, 110.11
  - Status of unpaid tax in bankruptcy and receivership, 110.12
  - Statute of limitations, 110.15
  - Tax information confidential, 110.08
  - Tax lien, 110.10
  - Tax overpayments and deficiencies, 110.07
- Penalty, 110.99

CANNABIS REGULATIONS (See MARIJUANA REGULATIONS)

CLERK, TOWN, 31.07

CODE OF ORDINANCES

- Adoption of codes by reference, 10.12
- Application to future ordinances, 10.03
- Changes in previously adopted ordinances, 10.17
- Code supersedes prior ordinances, 10.11
- Construction of code, 10.04
- Copy of code on file, 10.19

## CODE OF ORDINANCES (Cont'd)

- Errors and omissions, 10.09
- Interpretation, 10.02
- Matters not affected by repeal, 10.14
- Ordinances saved from repeal, 10.16
- Reasonable time, 10.10
- Reference to offices; name designations, 10.08
- Reference to other sections, 10.07
- Repeal of ordinances not contained in code, 10.13
- Rules of interpretation; definitions, 10.05
- Sale of code books, 10.20
- Section histories; statutory references, 10.15
- Severability, 10.06
- Title of code, 10.01
- Town seal, 10.18

## CONSTRUCTION REGULATIONS, TSO IV

CURFEW, 130.01

DEPUTY TOWN CLERK, 31.09

DISORDERLY CONDUCT, 130.06

DISTURBING THE PEACE, 130.02

## DOGS (See also ANIMALS)

- Definitions, 90.01
- Excessive number prohibited, 90.04
- Impoundment, 90.09
- Improper care of dogs; cruelty and neglect, 90.05
- Leash law; running at large, 90.03
- Licensing and vaccination, 90.02
- Ownership of dangerous dogs, 90.06
- Quarantine, 90.08
- Unlawful ownership of vicious dogs, 90.07

## DRIVING REGULATIONS

- Adoption of State Code, 70.01
- Amendments and deletions, 70.02
- Enforcement, 70.03
- Penalty, 70.99

**ELECTIONS**

- Compliance with State law, 30.18
- Notice of cancellation of elections, 30.17
- Officer terms, 30.15
- State term limits are inapplicable, 30.19
- Write-in votes, 30.16

**FARM ANIMALS (See also ANIMALS)**

- Definitions, 90.20
- Failure to abate nuisances, 90.24
- Failure to keep animals secure and restrained, 90.22
- Keeping of livestock and poultry, 90.21
- Removing waste materials, 90.23

**FINANCES**

- Collection of delinquent charges, 30.31
- Fiscal year, 30.30
- Sales tax, 30.33
- Sanitation enterprise, 30.32

**FISCAL YEAR, 30.30****FLOOD DAMAGE PREVENTION**

- Administration
  - Designation of Floodplain Administrator, 150.25
  - Duties and responsibilities of the Floodplain Administrator, 150.26
  - Permit procedures, 150.27
  - Variance procedures, 150.28
- Application, 150.06
- Basis for establishing the special flood hazard area, 150.07
- Compliance, 150.09
- Conflict of law, 150.10
- Definitions, 150.05
- Findings of fact, 150.02
- Floodplain development permit, 150.08
- Interpretation, 150.11
- Methods of reducing flood losses, 150.04

**FLOOD DAMAGE PREVENTION (Cont'd)**

Penalty, 150.99

Provisions for Flood Hazard Reduction

Alteration of a watercourse, 150.44

Floodways, 150.43

General standards, 150.40

Properties removed from the floodplain by fill, 150.45

Specific standards, 150.41

Standards for areas of shallow flooding (AO/AH Zones), 150.42

Standards for critical facilities, 150.47

Standards for subdivision proposals, 150.46

Statement of purpose, 150.03

Statutory authorization, 150.01

Warning and disclaimer of liability, 150.12

**FRANCHISES, TSO II****GARBAGE**

Accumulation of refuse or yard debris, 51.02

Authorized clean-up days, 51.07

Collections, 51.04

Collections of refuse, yard debris, conditions of service, and billing, 51.03

Definitions, 51.01

Fees and collection days, 51.05

Illegal dumping, 51.06

**GENERAL PENALTY**

Application of penalty to juveniles, 11.03

General penalty for violation, 11.02

Interpretation of unlawful acts, 11.05

Penalty for violations of ordinances adopted after adoption of code, 11.04

Violations, 11.01

**GOLF CARTS (See TRAFFIC CODE)****INSPECTIONS**

Authority to enter premises under emergency, 12.02

Entry, 12.01

**LEASH LAW, 90.03 (See also ANIMALS)****LODGING OCCUPATION TAX (See BUSINESSES, GENERALLY)****LOITERING OR PROWLING, 130.04**

**MARIJUANA REGULATIONS****Marijuana Cultivation, Testing, and Products Manufacturing Regulations**

- Application, 112.061
- Application of Fire Code; site inspection, 112.075
- Business conducted within building, 112.063
- Compliance with other applicable laws, 112.062
- Cost of inspections and reports, 112.076
- Definitions, 112.060
- Electrical, 112.074
- Exiting and security, 112.071
- Fire extinguishers, 112.072
- Interior finishes, 112.073
- Labeling and packaging requirements, 112.067
- Organization of cultivation facilities and product manufacturers, 112.066
- Penalty, 112.077
- Product extraction processes, 112.070
- Use of carbon dioxide (CO<sub>2</sub>) systems, 112.069
- Use of flammable materials, 112.068
- Use of pesticides, 112.064
- Ventilation required, 112.065

**Medical Marijuana Operations**

- Application and license fees, 112.013
- Application for license, 112.005
- Definitions, 112.001
- Duties of licensee, 112.009
- Indemnification of Town, 112.017
- License duration; renewal, 112.010
- License required, 112.002
- Licensing procedures, 112.008
- Licensing restrictions and requirements, 112.007
- Local licensing authority, 112.004
- No Town liability, 112.016
- No waiver of governmental immunity, 112.015
- Penalty, 112.018
- Persons prohibited as licensees and managers, 112.006
- Right of entry, 112.014
- Suspension or revocation; fine in lieu, 112.012
- Transfer; change of location; modification of premises, 112.011
- Types of licenses, 112.003

**Occupation Tax on Retail Marijuana Products Manufacturing Facilities**

- Audit of records, 112.144
- Collection of tax, 112.143
- Definitions, 112.141

## MARIJUANA REGULATIONS (Cont'd)

## Occupation Tax on Retail Marijuana Products Manufacturing Facilities (Cont'd)

- Depositions, 112.153
- Failure to pay tax, 112.148
- Forms and regulations, 112.147
- Hearings, subpoenas, and witness fees, 112.152
- Levy of tax, 112.142
- Penalty, 112.156
- Purpose, 112.140
- Recovery of unpaid tax, 112.150
- Right to amend, 112.155
- Status of unpaid tax in bankruptcy and receivership, 112.151
- Statute of limitations, 112.154
- Tax information confidential, 112.146
- Tax lien, 112.149
- Tax overpayment and deficiencies, 112.145

## Retail Marijuana Cultivation Facility Excise Tax

- Administration, 112.120
- Audit of records, 112.122
- Collection and reporting, 112.118
- Definitions, 112.115
- Duty of vendors to keep records, 112.119
- Failure to pay tax, 112.124
- Hearings, subpoenas, witness fees, and depositions, 112.128
- Imposition and rate of tax, 112.116
- Penalty, 112.131
- Recovery of unpaid tax, 112.126
- Right to amend, 112.130
- Status of unpaid tax in bankruptcy and receivership, 112.127
- Statute of limitations, 112.129
- Tax lien, 112.125
- Tax overpayments and deficiencies, 112.123
- Use of revenues, 112.121
- Vendor liability for collecting the tax, 112.117

## Retail Marijuana Establishments

- Application and license fees, 112.044
- Application for license, 112.035
- Co-location of medical marijuana operations and retail marijuana establishments, 112.038
- Definitions, 112.030
- Duties of licensee, 112.040
- Indemnification of Town, 112.048
- License duration; renewal, 112.041

## MARIJUANA REGULATIONS (Cont'd)

## Retail Marijuana Establishments (Cont'd)

- License required, 112.031
- Licensing procedures, 112.039
- Licensing restrictions and requirements, 112.037
- Local licensing authority, 112.033
- No Town liability, 112.047
- No waiver of governmental immunity, 112.046
- Penalty, 112.049
- Persons prohibited as licensees and managers, 112.036
- Right of entry, 112.045
- Screening and response to State license applications, 112.034
- Suspension or revocation; fine in lieu, 112.043
- Transfer; change of location; modification of premises, 112.042
- Types and numbers of licenses, 112.032

## Retail Marijuana Sales Tax

- Audit of records, 112.094
- Collection of tax, 112.093
- Definitions, 112.091
- Depositions, 112.103
- Failure to pay tax, 112.098
- Forms and regulations, 112.097
- Hearings, subpoenas, and witness fees, 112.102
- Legislative intent, 112.090
- Penalty, 112.106
- Recovery of unpaid tax, 112.100
- Retail marijuana sales tax, 112.092
- Right to amend, 112.105
- Status of unpaid tax in bankruptcy and receivership, 112.101
- Statute of limitations, 112.104
- Tax information confidential, 112.096
- Tax lien, 112.099
- Tax overpayments and deficiencies, 112.095

MAYOR PRO TEM, 31.04

MUNICIPAL COURT, 30.03

## NUISANCES

- Abatement, 91.04
- Authority to enter on property, 91.07
- Conflict of law, 91.08
- Definitions, 91.01

## NUISANCES (Cont'd)

- Emergency abatement, 91.05
- Nuisances prohibited, 91.02
- Recovery of expenses; assessment policy, 91.06
- Specific nuisances declared, 91.03

## OFFENSES, GENERALLY

## Miscellaneous Offenses

- Curfew, 130.01
- Damaging property, 130.10
- Disorderly conduct, 130.06
- Disturbing the peace, 130.02
- Loitering or prowling, 130.04
- Obstructing public streets, places, or buildings, 130.08
- Public intoxication, 130.03
- Trespass and unauthorized use of property prohibited, 130.09
- Unlawful assembly; failing to disperse, 130.05
- Vagrancy, 130.07

## Public Safety Regulations

- Assault, 130.35
- Excavations, 130.36
- False alarms, 130.34
- Indecent exposure, 130.30
- Subterraneous openings, 130.32
- Throwing stones and the like, 130.33
- Vehicles on sidewalks, 130.37

## OFFICIALS

## Board of Trustees

- Board of Trustees, 31.49
- Order of business for meetings, 31.47
- Regular meetings, 31.45
- Special meetings, 31.46
- Structure of government, 31.48

## Board of Trustees Roles and Responsibilities

- Definitions, 31.75
- Exceptions to this subchapter, 31.80
- Relationship of the Board of Trustees to Town staff, 31.79
- Responsibilities of all elected officials, 31.78
- Responsibilities of the Mayor, 31.76
- Responsibilities of the Trustees, 31.77

## OFFICIALS (Cont'd)

- Penalty, 31.99
- Town Officers
  - Acting Mayor, 31.05
  - Appointive offices , 31.02
  - Deputy Town Clerk, 31.09
  - Mayor Pro Tem, 31.04
  - Oath of office, 31.01
  - Powers and duties, 31.03
  - Town Attorney, 31.08
  - Town Clerk duties, 31.07
  - Town Treasurer duties, 31.06

## ORDINANCES, CODE OF

- Adoption of codes by reference, 10.12
- Application to future ordinances, 10.03
- Changes in previously adopted ordinances, 10.17
- Code supersedes prior ordinances, 10.11
- Construction of code, 10.04
- Copy of code on file, 10.19
- Errors and omissions, 10.09
- Interpretation, 10.02
- Matters not affected by repeal, 10.14
- Ordinances saved from repeal, 10.16
- Reasonable time, 10.10
- Reference to offices; name designations, 10.08
- Reference to other sections, 10.07
- Repeal of ordinances not contained in code, 10.13
- Rules of interpretation; definitions, 10.05
- Sale of code books, 10.20
- Section histories; statutory references, 10.15
- Severability, 10.06
- Title of code, 10.01
- Town seal, 10.18

## OUTDOOR VENDORS (See also BUSINESS LICENSING REGULATIONS)

- Definition, 111.26
- License fees, 111.27
- License required, 111.25

**PARKING**

Truck parking, 72.01

**PENALTY, GENERAL**

Application of penalty to juveniles, 11.03

General penalty for violation, 11.02

Interpretation of unlawful acts, 11.05

Penalty for violations of ordinances adopted after adoption of code, 11.04

Violations, 11.01

**POLICIES****Elections**

Compliance with State law, 30.18

Notice of cancellation of elections, 30.17

Officer terms, 30.15

State term limits are inapplicable, 30.19

Write-in votes, 30.16

**Finances**

Collection of delinquent charges, 30.31

Fiscal year, 30.30

Sales tax, 30.33

Sanitation enterprise, 30.32

Municipal Court, 30.03

Ordinance procedure, 30.02

Smoking near Town buildings, 30.01

**PROPERTY DAMAGING, 130.10**

**PROPERTY TRANSFERS, TSO III**

**PUBLIC DRUNKENNESS, 130.03**

**PUBLIC INTOXICATION, 130.03**

**RECREATIONAL VEHICLES**

- Golf Carts and Off-Highway Vehicles
  - Application, 71.16
  - Definitions, 71.15
  - Designated areas of operation, 71.18
  - Enforcement, 71.21
  - Exemptions, 71.20
  - State regulations apply, 71.17
  - Time of operation, 71.19
- Parking and use of RVs, 71.01

**SALES TAX, 30.33****SEWER**

- Extension of facilities authorized, 52.02
- Unlawful discharge, 52.05
- Use of public sewers required, 52.03
- Water service discontinued if sewerage charges are not paid, 52.01
- Workmanship and materials, 52.04

**SHIPPING CONTAINERS**

- Definition, 154.01
- Exception for governmental entities, 154.04
- Nonconforming uses, 154.05
- Penalty, 154.99
- Permanent shipping containers prohibited, 154.02
- Temporary shipping containers allowed, 154.03

**SIDEWALKS (See also STREETS AND SIDEWALKS)**

- Board may order construction or repair, 92.26
- Board may sue to enforce lien, 92.27
- Crosswalk requirements, 92.23
- Grade requirements, 92.22
- Littering and the like, 92.30
- Notice of construction and excavations, 92.24
- Responsibility to maintain sidewalk conditions, 92.29
- Sidewalk construction, 92.20
- Sidewalk construction materials, 92.21
- Sidewalk obstructions, 92.28
- Uniform width in certain areas, 92.25

## SPEED LIMITS (See TRAFFIC CODE)

## STREETS AND SIDEWALKS

## Curbs and Tree Lines

- Animals and vehicles not permitted, 92.07
- Curb construction and tree planting requirements, 92.02
- Curb lines and tree planting, 92.05
- Elevation and grade, 92.03
- Intersections, 92.04
- Parking areas, 92.06
- Purpose, 92.01

## Sidewalks

- Board may order construction or repair, 92.26
- Board may sue to enforce lien, 92.27
- Crosswalk requirements, 92.23
- Grade requirements, 92.22
- Littering and the like, 92.30
- Notice of construction and excavations, 92.24
- Responsibility to maintain sidewalk conditions, 92.29
- Sidewalk construction, 92.20
- Sidewalk construction materials, 92.21
- Sidewalk obstructions, 92.28
- Uniform width in certain areas, 92.25

TOWN ATTORNEY, 31.08

TOWN CLERK DUTIES, 31.07

TOWN SEAL, 10.18

TOWN TREASURER DUTIES, 31.06

## TRAFFIC CODE

## Driving Regulations

- Adoption of State Code, 70.01
- Amendments and deletions, 70.02
- Enforcement, 70.03
- Penalty, 70.99

## Parking

- Truck parking, 72.01

## TRAFFIC CODE (Cont'd)

## Recreational Vehicles

## Golf Carts and Off-Highway Vehicles

Application, 71.16

Definitions, 71.15

Designated areas of operation, 71.18

Enforcement, 71.21

Exemptions, 71.20

State regulations apply, 71.17

Time of operation, 71.19

Parking and use of RVs, 71.01

## TRASH

Accumulation of refuse or yard debris, 51.02

Authorized clean-up days, 51.07

Collections, 51.04

Collections of refuse, yard debris, conditions of service, and billing, 51.03

Definitions, 51.01

Fees and collection days, 51.05

Illegal dumping, 51.06

TREASURER, TOWN, 31.06

TRESPASS AND UNAUTHORIZED USE OF PROPERTY PROHIBITED, 130.09

TRUCK PARKING, 72.01 (See also TRAFFIC CODE)

VAGRANCY, 130.07

## WATER

## Backflow Prevention and Cross-Connection Control Program

Application, 50.27

Authority, 50.26

Compliance, 50.33

Definitions, 50.28

Inspection, testing, and repair, 50.30

Purpose, 50.25

Reporting and recordkeeping, 50.31

Requirements, 50.29

Right of entry, 50.32

## WATER (Cont'd)

## Water Department

- Application for connection, 50.05
- Authority to set water rates, 50.09
- Connection specifications, 50.06
- Damage to property, 50.04
- Department established, 50.01
- Deposits, 50.07
- Financial responsibility, 50.10
- Fire hydrants, 50.03
- Interruption of services; no damages, 50.11
- Monthly water service surcharge, 50.08
- No damages for failure to supply, 50.13
- Right of inspection, 50.17
- Superintendent, 50.02
- Unlawful connection; tampering, 50.16
- Waste of water prohibited, 50.15
- Water service restrictions, 50.14
- Water use during emergencies, 50.12

ZONING, 153.01, TSO V