

**AGENDA for a Regular Meeting
of the Board of Trustees of the Town of Fairplay, Colorado
Monday, October 3, 2022, at 6:00 p.m. at the Fairplay Town Hall Board Room
901 Main Street, Fairplay, Colorado**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. APPROVAL OF AGENDA**
- V. CONSENT AGENDA** *(The Consent Agenda is intended to allow the Board to spend its time on more complex items. These items are generally perceived as non-controversial and can be approved by a single motion. The public or the Board Members may ask that an item be removed from the Consent Agenda for individual consideration.)*
 - A. APPROVAL OF EXPENDITURES** – Approval of bills for various Town funds in the amount of \$55,593.14.
- VI. CITIZEN COMMENTS**
- VII. NEW BUSINESS**
 - A.** Should the Board Approve the adoption of Resolution No. 35, Series of 2022, entitled, **“A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO APPROVING A REVOCABLE SUB-LICENSE AGREEMENT WITH SAVOR THE WILD, LLC FOR TEMPORARY USE OF A PORTION OF THE PROPERTY KNOW AS 401 MAIN STREET, FAIRPLAY, COLORADO.”**?
 - B.** Introduction of Ordinance No. 11, Series of 2022, entitled, **“AN ORDINANCE ADOPTING THE INTERNATIONAL BUILDING CODE, 2018 EDITION, INCLUDING APPENDIX CHAPTERS G; INTERNATIONAL RESIDENTIAL CODE, 2018 EDITION INCLUDING APPENDIX CHAPTER J; INTERNATIONAL EXISTING BUILDING CODE, 2018 EDITION; INTERNATIONAL FIRE CODE, 2018 EDITION; NATIONAL ELECTRICAL CODE AS ADOPTED BY THE STATE OF COLORADO ELECTRICAL BOARD; INTERNATIONAL MECHANICAL CODE, 2018 EDITION; INTERNATIONAL ENERGY CONSERVATION CODE, 2018 EDITION; INTERNATIONAL PLUMBING CODE, 2018 EDITION; INTERNATIONAL FUEL GAS CODE, 2018 EDITION; INTERNATIONAL PROPERTY MAINTENANCE CODE 2018 EDITION, ALL REGULATING THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, MOVING, REMOVAL, DEMOLITION, CONVERSION, OCCUPANCY, EQUIPMENT, USE, HEIGHT, AREA AND MAINTENANCE OF ALL BUILDINGS OR STRUCTURES, AND BUILDING SERVICE EQUIPMENT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE OF JANUARY 1, 2023.”** and setting of Public Hearing to consider adoption for November 7, 2022.
 - C.** Should the Board Approve the adoption of Resolution No. 36, Series of 2022, entitled, **“A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH HARDESTY ENGINEERING & MAPPING, LLC FOR COMPLETION OF A WATER & WASTEWATER ASSET INVENTORY AND MANAGEMENT PLAN AND A WATER TAP FEE ANALYSIS AND RECOMMENDATION REPORT.”**?
- VIII. UNFINISHED/OTHER BUSINESS**
 - A.** Continued discussion regarding Town of Fairplay 2022 Employee Bonus Pay and 2023 Salaries and Benefits.
 - B.** Discussion regarding 5th Street water leak repair expenses.
 - C.** Discussion regarding the process to fill Trustee vacancy.
- IX. WORK SESSION REGARDING TOWN OF FAIRPLAY 2023 BUDGET**
- X. STAFF AND BOARD OF TRUSTEE REPORTS**
- XI. EXECUTIVE SESSION** Pursuant to C.R.S. Section 24-6-402(4)(e) for the purpose of determining positions relative to matters that may be subject to negotiation, developing strategy for negotiations, and/or instructing negotiators and/or for the purpose of personnel matters under C.R.S. Section 24-6-402(4)(f), regarding Intergovernmental Agreement(s) with Park County.
- XII. ADJOURNMENT.**



MEMORANDUM

TO: Mayor and Board of Trustees

FROM: Kim Wittbrodt, Treasurer

RE: Paid Bills

DATE: September 22, 2022

Agenda Item: Bills

Attached is the list of the invoices paid between September 16, 2022, and September 22, 2022.

Total Expenditures: \$55,593.14

Upon motion to approve the consent agenda, the expenditures will be approved.

Please contact me with any questions.

Report Criteria:

Detail report type printed

Check Issue Date	Check Number	Name	Description	Seq	Invoice Date	Check Amount	GL Account
09/22/2022	18519	Dana Kepner Company, In	tapping sleeve	1	08/19/2022	1,159.68	517495
Total 682:						1,159.68	
09/22/2022	18521	Main Street Garage	skid steer tires	1	09/21/2022	554.46	105625
09/22/2022	18521		skid steer tires	2	09/21/2022	277.23	517460
09/22/2022	18521		skid steer tires	3	09/21/2022	277.22	517655
Total 1336:						1,108.91	
09/19/2022	18506	Postal Pros Southwest, Inc	water billing	1	09/08/2022	304.27	517218
Total 1699:						304.27	
09/19/2022	18509	South Park City Museum	donation from parade winn	1	09/19/2022	50.00	105162
Total 1942:						50.00	
09/19/2022	18510	USABlueBook	supplies	1	09/06/2022	36.40	517480
09/22/2022	18525		valve boxes	1	09/19/2022	499.18	517480
Total 2176:						535.58	
09/22/2022	18526	Xcel Energy	945 quarry road	1	09/14/2022	14.05	517490
Total 2296:						14.05	
09/19/2022	18501	Deagan, John	refund meeting room fee	1	09/19/2022	10.00	104782
Total 2380:						10.00	
09/22/2022	18518	CACP	Member Dues	1	08/11/2022	250.00	105460
Total 2539:						250.00	
09/19/2022	18512	Wittbrodt, Kim	cell phone reimb	1	09/18/2022	50.00	105065
Total 2655:						50.00	
09/19/2022	18498	Chaffee County Waste	6 yd weekly	1	09/06/2022	107.50	105650
09/19/2022	18498		6 yd weekly	2	09/06/2022	107.50	105023
09/19/2022	18498		2 yd biweekly	3	09/06/2022	69.00	517675
Total 2801:						284.00	
09/19/2022	18497	Bullock, Julie	cell phone reimburse	1	09/18/2022	25.00	105645
09/19/2022	18497		cell phone reimburse	2	09/18/2022	25.00	517226
Total 2812:						50.00	
09/19/2022	18499	Colorado Analytical Lab	water testing	1	09/01/2022	698.00	517475
09/19/2022	18499		water testing	1	09/12/2022	1,504.00	517430
09/19/2022	18499		water testing	1	09/12/2022	1,504.00	517430
09/19/2022	18499		water testing	1	09/12/2022	730.00	517475

Check Issue Date	Check Number	Name	Description	Seq	Invoice Date	Check Amount	GL Account
Total 2864:						4,436.00	
09/22/2022	18524	Tolin Mechanical	repair hot water heater	1	08/31/2022	773.25	517260
Total 2867:						773.25	
09/19/2022	18508	Shirley Septic Pumping, In	concerts port a pots	1	08/26/2022	506.00	105150
Total 2893:						506.00	
09/19/2022	18500	Communication Solutions	radio programming	1	09/08/2022	150.00	105430
Total 3284:						150.00	
09/19/2022	18504	High Country Roto-Rooter	clean out valve boxes	1	09/14/2022	680.00	517445
Total 3287:						680.00	
09/19/2022	18502	Ernst, Sarah	cell phone reimburse	1	09/19/2022	50.00	105065
Total 3313:						50.00	
09/22/2022	18523	Tandem Design Lab	burro days website	1	09/19/2022	750.00	105162
Total 3384:						750.00	
09/19/2022	18496	Bannister, Chris	cell phone reimburse	1	09/19/2022	25.00	517226
09/19/2022	18496		cell phone reimburse	2	09/19/2022	25.00	105645
Total 3464:						50.00	
09/19/2022	18511	Wagner, Alex	cell phone reimburse	1	09/19/2022	25.00	517226
09/19/2022	18511		cell phone reimburse	2	09/19/2022	25.00	105645
Total 3506:						50.00	
09/19/2022	18503	Graham, Donovan	cell phone reimburse	1	09/19/2022	25.00	105645
09/19/2022	18503		cell phone reimburse	2	09/19/2022	25.00	517226
Total 3519:						50.00	
09/22/2022	18520	Kenosha Pest Specialist	pest control	1	09/20/2022	30.00	105025
09/22/2022	18520		pest control	1	09/20/2022	30.00	517260
Total 3564:						60.00	
09/19/2022	18507	Sciacca, Janell	cell phone reimburse	1	09/19/2022	50.00	105065
Total 3583:						50.00	
09/19/2022	18505	Kleinschmidt, Sean	cell phone reimburse	1	09/19/2022	25.00	517226
09/19/2022	18505		cell phone reimburse	2	09/19/2022	25.00	105645
Total 3590:						50.00	
09/22/2022	18522	Rocks & Walls Excavation	repair water leak	1	09/19/2022	25,361.78	517445

Town of Fairplay

Paid Invoice Report - Paid Bills - Board
Check issue dates: 9/16/2022 - 9/22/2022Page: 3
Sep 22, 2022 12:24PM

Check Issue Date	Check Number	Name	Description	Seq	Invoice Date	Check Amount	GL Account
Total 3614:						25,361.78	
Multiple	18330	Marty & Shelly Bauer	best bike	1	07/31/2022	.00	105162
			best bike	2	07/31/2022		105162
Total 3646:						.00	
09/20/2022	18516	Ace Coring and Cutting LL	1/2 down payment	1	09/20/2022	17,016.50	105883
Total 3656:						17,016.50	
09/22/2022	18517	Arkansas Valley Publishing	burro days newspaper	1	07/27/2022	1,743.12	105162
Total 3657:						1,743.12	
Grand Totals:						55,593.14	

Report Criteria:

Detail report type printed

**Town of Fairplay**

400 Front Street • P.O. Box 267
Fairplay, Colorado 80440
(719) 836-2622 phone
(719) 836-3279 fax
www.fairplayco.us

STAFF REPORT

TO: Mayor and Board of Trustees

FROM: Janell Sciacca, Town Administrator

RE: New Business Item A – Resolution No. 35, Savor the Wild Sub-License Agreement for 401 Main St

DATE: October 3, 2022

REQUEST:

Savor the Wild, LLC has submitted the attached proposal for temporary use of a portion of the parking lot at 401 Main Street in order to park a trailer and erect a tent in order to conduct on-site sales of frozen salmon.

BACKGROUND/ANALYSIS:

The Town Board granted temporary use of the parking lot at 401 Main to Savor the Wild in October of 2021 to conduct on-site salmon sales. Co-owner Jaymi Bethea contacted Staff again this year inquiring about utilizing the same area of the lot at 401 Main Street for salmon sales from October - December, 2022. The Town does lease the lot from Sam Mick for public parking and has approval from Mr. Mick for sub-lease uses such as this.

The applicants indicate they are 100% self-contained and require no utilities and there is no service or consumption of food on-site so there is no requirement for trash receptacles or portable toilets. The applicants do have a valid business license and there were no known issues resulting from their use last year. Therefore, Staff supports granting of the sub-license agreement with the same \$100.00/month fee.

STAFF RECOMMENDATION

Staff recommends the Board of Trustees approve Resolution No. 35, Series 2022 as presented by motion, second and a roll call vote.

Attachments:

- Resolution No. 35, Series 2022
- Savor the Wild Proposal & Site Plan

TOWN OF FAIRPLAY, COLORADO

RESOLUTION NO. 35

(Series of 2021)

A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO APPROVING A REVOCABLE SUB-LICENSE AGREEMENT WITH SAVOR THE WILD, LLC FOR TEMPORARY USE OF A PORTION OF THE PROPERTY KNOWN AS 401 MAIN STREET, FAIRPLAY, COLORADO.

WHEREAS, the Town of was requested by Savor the Wild, LLC to grant usage of a portion of the leased parking lot at 401 Main Street for frozen salmon sales from October 3, 2022 to December 31, 2022; and

WHEREAS, the Town of Fairplay is allowed, through the lease of the property, to grant use of a portion of said property via a sub-license to Savor the Wild, LLC; and

WHEREAS, the Board of Trustees recognizes the many benefits of allowing additional food sales in Town; and

WHEREAS, Savor the Wild, LLC has agreed to the terms of the revocable sub-license.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO that a revocable sub-license agreement, a copy of which is attached and fully incorporated herein as Exhibit A, is hereby authorized and approved and the Mayor and/or Town Administrator are authorized to execute same on behalf of the Town.

RESOLVED, APPROVED, AND ADOPTED this 3rd day of October, 2022.

TOWN OF FAIRPLAY, COLORADO

Frank Just, Mayor

ATTEST:

Janell Sciacca, Town Clerk

EXHIBIT A

REVOCABLE SUB-LICENSE AGREEMENT

THIS AGREEMENT is made this 3rd day of October, 2022 by and between Savor The Wild, LLC ("Lessee") and the Town of Fairplay, Colorado (the "Town").

For and in consideration of the sum of One-Hundred dollars (\$100.00) paid monthly by Lessee to the Town for each month of use, the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. THE LICENSE

The Town leases the property commonly known and numbered as 401 Main Street, Fairplay, Colorado (the "Property"). Subject to all the terms and conditions hereto, the Town hereby grants to Lessee a license to occupy and use a portion the Property, as depicted in Exhibit A, for the purpose set forth in Section 2 herein.

SECTION 2. TERMS OF AGREEMENT

A portion of the Property, as depicted in Exhibit A, may be used and occupied by Lessee for the purpose of the placement and operation of a temporary food vending vehicle for a period of time, beginning October 3, 2022 and ending December 31, 2022 Lessee is required to pay the agreed upon fee for each month of usage on the 1st of each month. Lessee is required to place trash receptacles on the Property and may place tables, canopies, temporary signage and portable toilets on the Property as depicted on the attached map. No items, including the food trailer, placed on the Property by Lessee may block access to the parking lot, alley or sidewalk.

SECTION 3. TERMINATION

Either party may terminate this Agreement by giving written notice to the other party specifying the date of termination, such notice to be given not less than thirty (30) days prior to the date specified therein. Upon termination the Property shall be returned to its original condition.

SECTION 4. MAINTENANCE

Lessee shall, at its own expense, keep and maintain in good repair any fixtures or structures constructed, placed, operated or maintained on the Property and, within thirty (30) days of termination of this Agreement, shall remove such fixtures. Trash must be disposed of daily

SECTION 5. DAMAGE TO PROPERTY

Lessee shall be responsible for all damage to the Property arising out of or resulting from the use of the Property by Lessee, its agents, employees, visitors, patrons and invitees. Lessee shall notify the Town immediately upon discovery of any damage to the Property. Lessee shall correct and repair the damage within one (1) week of notification or knowledge of the damage unless otherwise directed by the Town.

SECTION 6. INSURANCE

Lessee agrees to procure insurance coverage which includes and covers the Property that is the subject of this Agreement, and to name the Town as an additional insured thereon. Such insurance policy shall at a minimum include liability and property damage insurance, with policy limits for bodily injury and property damage in an amount to be agreed upon by the parties. A Certificate of Insurance showing the Town as an additional insured thereon shall be provided to the Town within thirty (30) days of execution of this Agreement. The failure to provide the Certificate of Insurance shall be grounds for immediate revocation of this License Agreement.

SECTION 7. NOTICES

Any notice given pursuant to this Agreement by either party to the other shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, and addressed as follows:

To the Town: Town of Fairplay
 901 Main Street
 P.O. Box 267
 Fairplay, CO 80440

To Lessor: Savor the Wild, LLC
 P.O. Box 441
 Alma, CO 80420

SECTION 8. MISCELLANEOUS

A. Agreement Binding. This Agreement shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties hereto, subject to any other conditions and covenants contained herein.

B. Applicable Law. The laws of the State of Colorado and applicable federal, state and local laws, rules, regulations and guidelines shall govern this Agreement.

C. Amendment. This Agreement may not be amended except in writing by mutual agreement of the parties, nor may rights be waived except by an instrument in writing signed by the party charged with such waiver.

D. Headings. The headings of the sections of this Agreement are inserted for reference purposes only and are not restrictive as to content.

E. Assignment. Lessee may not assign or transfer this Agreement, except upon the express written authorization of the Town.

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

TOWN OF FAIRPLAY, COLORADO

Frank Just, Mayor

ATTEST:

Janell Sciacca, Town Clerk

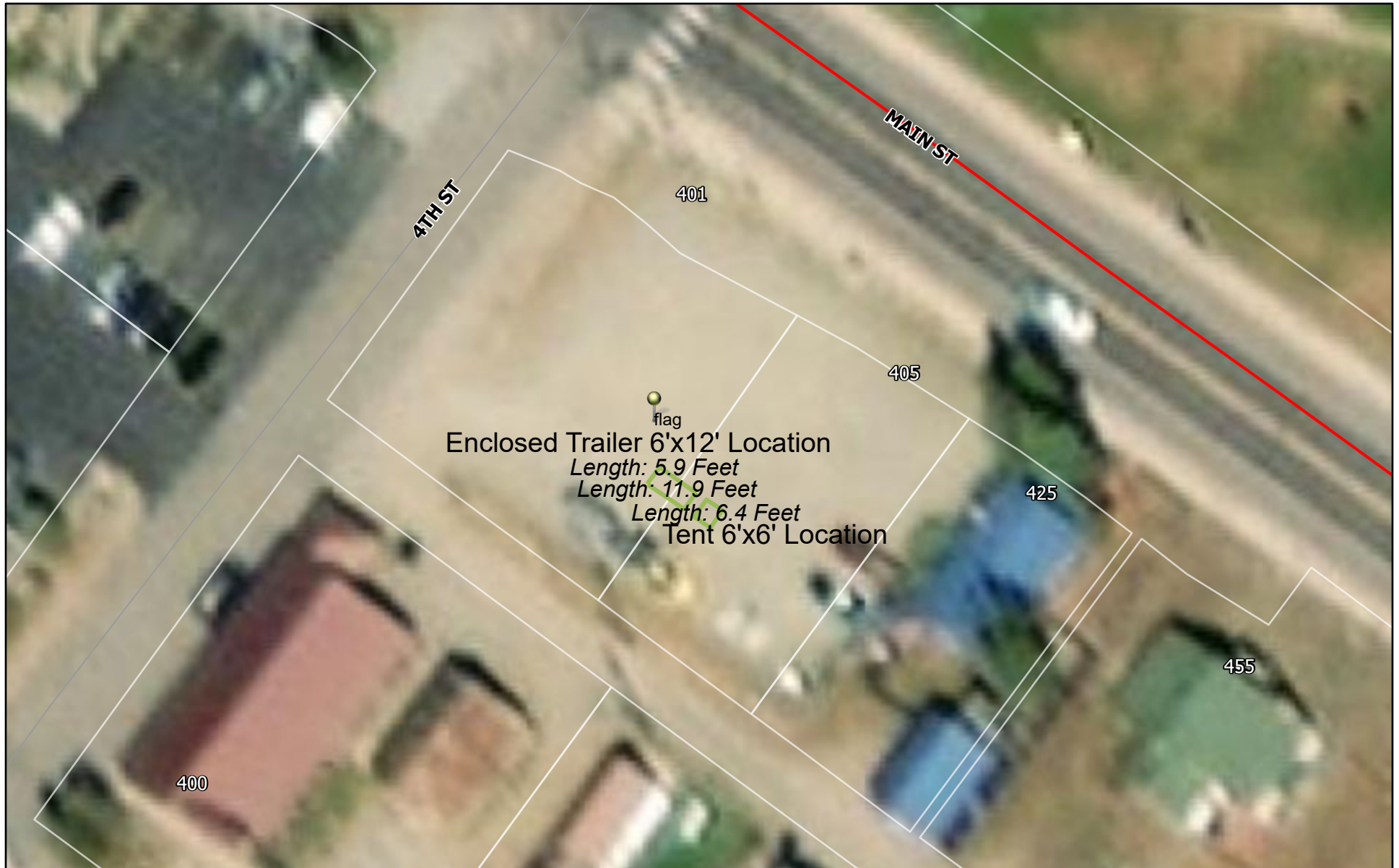
SAVOR THE WILD, LLC

Jaymi Bethea

Hayden Linscheid

Park County Map

11



10/11/2021, 11:56:43 AM

Roads

— ST HWY

— LOCAL

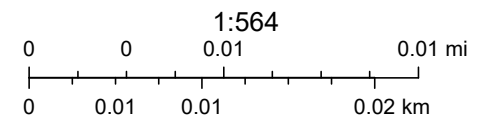


Addresses Points

Parcel Public



Subdivisions



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Park County Colorado
For informational use only.



CERTIFICATE OF PROPERTY INSURANCE

12DATE (MM/DD/YYYY)
09/23/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

PRODUCER Hiscox Inc. 520 Madison Avenue 32nd Floor New York, New York 10022	CONTACT NAME:	
	PHONE (A/C. No. Ext): 844-357-0403	FAX (A/C. No):
INSURED Savor the Wild LLC 4th and main Fairplay Colorado, CO 80440	E-MAIL ADDRESS: contact@hiscox.com	
	PRODUCER CUSTOMER ID:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A: Hiscox Insurance Company Inc.	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
A	☐ PROPERTY	P100.670.435.2	10/19/2022	10/19/2023	☐ BUILDING	\$
	☐ CAUSES OF LOSS				☒ PERSONAL PROPERTY	\$ 10,000
	☐ DEDUCTIBLES				☐ BUSINESS INCOME	\$
	☐ BASIC				☐ EXTRA EXPENSE	\$
	☒ BROAD				☐ RENTAL VALUE	\$
	☐ SPECIAL				☐ BLANKET BUILDING	\$
	☐ CONTENTS				☐ BLANKET PERS PROP	\$
	☐ \$ 500				☐ BLANKET BLDG & PP	\$
	☐ EARTHQUAKE				☐	\$
	☐ WIND				☐	\$
	☐ FLOOD				☐	\$
	☐				☐	\$
	☐				☐	\$
	☐				☐	\$
	☐ INLAND MARINE	TYPE OF POLICY			☐	\$
	☐ CAUSES OF LOSS	POLICY NUMBER			☐	\$
	☐ NAMED PERILS				☐	\$
	☐				☐	\$
	☐ CRIME				☐	\$
	☐ TYPE OF POLICY				☐	\$
	☐				☐	\$
	☐				☐	\$
	☐ BOILER & MACHINERY / EQUIPMENT BREAKDOWN				☐	\$
	☐				☐	\$
	☐				☐	\$
	☐				☐	\$

SPECIAL CONDITIONS / OTHER COVERAGES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDERTOWN OF FAIRPLAY
901 MAIN STREET PO BOX 267
FAIRPLAY, CO 80440**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CERTIFICATE OF LIABILITY INSURANCE

13
DATE (MM/DD/YYYY)

09/23/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hiscox Inc. 520 Madison Avenue 32nd Floor New York, New York 10022	CONTACT NAME: PHONE (A/C. No. Ext): (888) 202-3007 FAX (A/C. No): E-MAIL ADDRESS: contact@hiscox.com INSURER(S) AFFORDING COVERAGE INSURER A: Hiscox Insurance Company Inc NAIC # 10200
INSURED Savor the Wild LLC 4th and main Fairplay Colorado, CO 80440	INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			P100.670.435.2	10/19/2022	10/19/2023	EACH OCCURRENCE \$ 300,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 300,000 GENERAL AGGREGATE \$ 300,000 PRODUCTS - COMP/OP AGG \$ 300,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N	N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

TOWN OF FAIRPLAY
 901 MAIN STREET PO BOX 267
 FAIRPLAY, CO 80440

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Town of Fairplay

400 Front Street • P.O. Box 267
 Fairplay, Colorado 80440
 (719) 836-2622 phone
 (719) 836-3279 fax
 www.fairplayco.us

STAFF REPORT

TO: Mayor and Board of Trustees

FROM: Kyle Parag, Building Official

RE: Chapter 18 Restructure and Code update

DATE: October 3, 2022

BACKGROUND/ANALYSIS:

The Town adopts Building Codes that provide specific details and requirements related to the construction of buildings and structures within the Town to assure a safe built environment. These Building Codes are based on a national council that continuously implements code changes based on industry standards, requirements, events, and material innovations. The Council produces new versions with updates every 3 years and jurisdictions are suggested to adopt the newer versions on a regular basis.

As Building Official for the Town, I am recommending the Town adopt the 2018 series of the International Code Council (ICC) published documents.

Each jurisdiction is recommended to make amendments that provide specific requirements about the unique jurisdiction. There are several topics that are commonly amended in local jurisdictions to create a code that works with the community. Below is a list of topics that are recommended for discussion and then there is an appendix at the end of the report with optional changes.

1. Work exempt from permit.

Section 105.2 currently reads:

Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided that the floor area is not greater than 120 square feet (11 m²).
2. Fences not over 7 feet (2134 mm) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18 925 L) and the ratio of height to diameter or width is not greater than 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.

- 7.Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
- 8.Temporary motion picture, television and theater stage sets and scenery.
- 9.Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18 925 L) and are installed entirely above ground.
- 10.Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
- 11.Swings and other playground equipment accessory to detached one- and two-family dwellings.
- 12.Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
- 13.Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

My recommendation is to remove number 2 in its entirety. Another option for number 2 would be change it to 42" which is consistent with front yard fence limitations, or exempt fences not located on lot lines.

*NOTE, number 1 reads 200 sq. ft. in the residential code.

2. Currently adopted code has new construction permits expire at 3 years. Recommended text would read:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

One common change is to increase the timeframe to 360 days of inactivity for permit expiration.

3. Temporary Occupancy Certificates IBC text reads:

The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

Section 18-1-60 reads:

A temporary certificate of occupancy shall not be issued unless the administrative authority believes that a final certificate of occupancy will be issued within thirty (30) days, the structure is safe and the structure is complete except for minor matters which do not affect the health, safety and welfare of the inhabitants. If the structure is not complete within thirty (30) days of the issuance of a temporary certificate of occupancy and no final certificate of occupancy has been issued within such thirty-day period, a penalty in the amount of one hundred dollars (\$100.00) per day shall accrue for each day the building is occupied in violation of the Section.

Temporary Occupancy can be challenging if the project cannot be completed due to weather or other delays. Another common problem is that the owner is unwilling to complete the project. One common option is to create a refundable fee for Temporary Certificates with differing requirements for residential and commercial.

4. It can become very difficult to process reroof permits during large-scale events. Optional language would waive the requirement or delay the permitting process after a large-scale weather event allowing the Department additional time to handle an influx of permits.
5. Many jurisdictions are limiting the use of wood-burning fireplaces for due to fire safety and environmental aspects.
6. The Town may want to opt to remove the requirement for residential buildings to have the building air leakage tested
 - a. Current recommended text reads:
 - i. The *building* or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour in *Climate Zones* 1 and 2, and three air changes per hour in *Climate Zones* 3 through 8. Testing shall be conducted [in accordance with RESNET/ICC 380, ASTM E779 or ASTM E1827](#) and reported at a pressure of 0.2 inch w.g. (50 Pascals). Where required by the *building official*, testing shall be conducted by

an *approved* third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the *building official*. Testing shall be performed at any time after creation of all penetrations of the *building thermal envelope*.

7. For residential sprinkler systems, Fire Departments recommend homes larger than 6000 sq. f.t are sprinklered, and that requirement is included in the recommended text. The Northwest Fire District recommends the Town add a new section that would read:
(R313.2 Internal Fire Protection. Residences between 4,000 and 6,000 square feet shall be provided with 5/8 inch Type "X" drywall or ½" Cementous board throughout the structure.
8. Ice and water shield is a self-adhering underlayment that protects against the effect of the warm conditioned air melting snow and ice to flow to the eaves where the water refreezes into potential dams. The backing of water will flow under the shingles and into the home. Summit County requires Ice and Water over the entire roof surface, and some believe we have for years.

Recommended code reads:

R905.1.2 Ice barriers.

In areas where there has been a history of ice forming along the eaves causing a backup of water as designated in [Table R301.2\(1\)](#), an ice barrier shall be installed for asphalt shingles, metal roof shingles, mineral-surfaced roll roofing, slate and slate-type shingles, wood shingles and wood shakes. The ice barrier shall consist of not fewer than two layers of *underlayment* cemented together, or a self-adhering polymer-modified bitumen sheet shall be used in place of normal *underlayment* and extend from the lowest edges of all roof surfaces to a point not less than 24 inches (610 mm) inside the exterior wall line of the building. On roofs with slope equal to or greater than eight units vertical in 12 units horizontal (67-percent slope), the ice barrier shall also be applied not less than 36 inches (914 mm) measured along the roof slope from the eave edge of the building.

9. The unamended 2018 code regarding roof extensions for plumbing vents reads:

P3103.1.1 Roof extension.

Open vent pipes that extend through a roof that do not meet the conditions of [Section P3103.1.2](#) or [P3103.1.3](#) shall terminate not less than 6 inches (150 mm) above the roof or 6 inches (150 mm) above the anticipated snow accumulation, whichever is greater.

6 inches may not be adequate for the climate conditions of Fairplay. Therefore, 12, 14, or 16 inches is recommended.

Current recommended code reads:

IRC Section P3103.1 (roof extension) is amended to read in its entirety:

P3103.1. Roof extension. All open vent pipes which extend through a roof shall be terminated at least 12 inches above the roof or 12 inches above the anticipated snow accumulation, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet (2134 mm) above the roof.

10. As it relates to the Fire code;

- a. C.R.S. 32-1-1002(1)(d) reads:

(d) To adopt and enforce fire codes, as the board deems necessary, but no such code shall apply within any municipality or the unincorporated portion of any county unless the governing body of the municipality or county, as the case may be, adopts a resolution stating that the code or specific portions thereof shall be applicable within the fire protection district's boundaries; except that nothing in this subsection (1)(d) shall be construed to affect any fire codes existing on June 30, 1981, that have been adopted by the governing body of a municipality or county. Notwithstanding any other provision of this section, no fire protection district shall prohibit the sale of permissible fireworks, as defined in section 24-33.5-2001 (11), within its jurisdiction.

The recommended code does not include the language of C.R.S. to give the district authority to enforce their own adopted codes. The recommended code provides for all the amendments and adoptions the Fire District recommends and appoints them as the enforcing authority. The Town has the final authority of the enforcing agency and the adopted code.

My recommendation includes two new codes for adoption, the International Existing Building Code, and the Wildland Urban Interface Code.

The International Existing Building Code is designed to be adopted simultaneously with the Building Code since the removal of the Existing Building Chapter from the Building Code in the 2015 Published versions. The Existing Building Code provides direction and choices for the applicant to meet code requirements during a renovation or addition. Without the adoption of the Existing Building code, applicants must meet strict requirements from the Building Code that are difficult or sometimes impossible.

The International Wildland Urban Interface Code provides requirements for homes constructed in the Wildland Urban Interface (WUI) to improve the fire resistance from both a wildfire attacking the home and from a home fire starting a wildfire.

STAFF RECOMMENDATION

Following introduction and review of the ordinance and questions, Staff recommends setting of the Public Hearing to consider formal adoption for November 7, 2022 at 6PM by motion, second and roll call vote.

Once the hearing is set, Staff will then proceed to publish 2 separate notices in The Flume newspaper, no less than 15 days prior to November 7 as required by law due to the fact this is considered adoption of a code by reference. During that time Staff will also post corresponding information on the Town website, Facebook page and designated public posting locations in order to let the community know of the pending code changes.

APPENDIX of Optional Amendments

1. Work exempt from permit
 - a. IBC Section 105.2 (Work Exempt from Permit) Number 2 is amended to read in its entirety:
2: Fences not over 42 inches high.
 - b. IBC Section 105.2 (Work Exempt from Permit) Number 2 is amended to read in its entirety:
2: Fences not over 7 feet high and located more than 5 feet from any property line.
2. Permit expiration
 - a. IBC Section 105.4 (Expiration) Replace 180 days with 360 days in all locations 180 days is written.
3. Temporary Certificates of Occupancy
 - a. A temporary certificate of occupancy shall not be issued unless the administrative authority believes that a final certificate of occupancy will be issued within 180 days, the structure is safe and the structure is complete except for minor matters which do not affect the health, safety and welfare of the inhabitants. If the structure is not complete within 30 days of the issuance of a temporary certificate of occupancy and no final certificate of occupancy has been issued within such 180-day period, a penalty in the amount of one hundred dollars (\$100.00) per day shall accrue for each day the building is occupied in violation of the Section.
(C) There will be a \$600 fee for a temporary certificate of occupancy if approved by the Chief Building Official. A Temporary Certificate of Occupancy shall be valid for 180 days. If a permanent Certificate of Occupancy is issued within the first 30 days, all but \$40 will be refunded. If a permanent Certificate of Occupancy is issued after the first 30 days but prior to the 180-day expiration, \$100 shall be refunded for each full 30-day period remaining out of the original 180-day validity period of the Temporary Certificate of Occupancy.
4. Reroof permits after large-scale weather event
 - a. IRC Section R105.2.1 (Emergency Repairs) is amended to read in its entirety:
R105.2.1 Emergency repairs. Where repairs to a structure, equipment replacements and other repairs must be performed in an emergency situation, a permit application shall be submitted within the next working business day to the building official. During a large scale event such as a hail, wind storm event or tornado, requirements for roofing permits may be deferred or suspended until as such time as a provided by the building official.
5. Fireplace installations
 - a. Sec. 18-1-90 Fireplace installation
 - i. Any new or remodeled fireplace to be installed or constructed in any dwelling in the Town shall be one of the following:
 1. A gas appliance
 2. An electric device; or
 3. A fireplace or fireplace insert that meets the stringent emissions standards for woods stoves established by C.R.S. Title 25, Article 7 and the Colorado Department of Public Health and Environment Air Quality Commission Regulations or any other clean burning device that is approved by the Air Quality Control Commission Regulations.
6. Remove requirement for air leakage testing
 - a. IRC Section N1102.4.1.2 (Testing) is deleted in its entirety.
7. Residential fire sprinklers and fire safety construction.
 - a. Add section R313.2 (Internal Fire Protection) with the following language:
 - i. R313.2 Internal Fire Protection. Unsprinklered residences between 4,000 and 6,000 square feet shall be provided with 5/8 inch Type "X" drywall or ½" Cementous board throughout the structure.

8. Ice and Water

a. IRC Section R905.1.2 is amended to read in its entirety:

- i. R905.1.2 Ice Barriers. An ice dam protection that consists of an approved self-adhering modified bitumen sheet underlayment shall be used at all sloped roofs. This ice dam protection underlayment shall extend up the slope of the roof from the drip edge of the roof or eave and cover the entire roof deck surface.

TOWN OF FAIRPLAY, COLORADO

**ORDINANCE NO. 11
(SERIES 2022)**

AN ORDINANCE ADOPTING THE INTERNATIONAL BUILDING CODE, 2018 EDITION, INCLUDING APPENDIX CHAPTERS G; INTERNATIONAL RESIDENTIAL CODE, 2018 EDITION INCLUDING APPENDIX CHAPTER J; INTERNATIONAL EXISTING BUILDING CODE, 2018 EDITION; INTERNATIONAL FIRE CODE, 2018 EDITION; NATIONAL ELECTRICAL CODE AS ADOPTED BY THE STATE OF COLORADO ELECTRICAL BOARD; INTERNATIONAL MECHANICAL CODE, 2018 EDITION; INTERNATIONAL ENERGY CONSERVATION CODE, 2018 EDITION; INTERNATIONAL PLUMBING CODE, 2018 EDITION; INTERNATIONAL FUEL GAS CODE, 2018 EDITION; INTERNATIONAL PROPERTY MAINTENANCE CODE 2018 EDITION, ALL REGULATING THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, MOVING, REMOVAL, DEMOLITION, CONVERSION, OCCUPANCY, EQUIPMENT, USE, HEIGHT, AREA AND MAINTENANCE OF ALL BUILDINGS OR STRUCTURES, AND BUILDING SERVICE EQUIPMENT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE OF JANUARY 1, 2023.

WHEREAS, the Town of Fairplay, Colorado (“Town”) is a statutory town, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the Town by and through its Board of Trustees (“Board”), possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety and welfare; and

WHEREAS, Colorado Revised Statutes § 31-16-201 to 208 provides that municipalities may adopt certain codes and standards by reference; and

WHEREAS, Pursuant to CRS § 31-16-204, the Board of Trustees may alter and amend any building code; and

WHEREAS The Town of Fairplay, Board of Trustees did approve Ordinance 5, Series of 2019, adopting with certain amendments the International Building Code, 2012 Edition which is codified as Fairplay Municipal Code Chapter 18 – Building Regulations, and the Board of Trustees now desires to repeal and reenact the entire Chapter with the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD FOR THE TOWN OF FAIRPLAY, COLORADO AS FOLLOWS:

Section 1. Chapter 18 – Building Regulations is repealed in its entirety and reenacted as follows:

**CHAPTER 18
Building Regulations**

ARTICLE I Building Codes

Sec. 18-1-10. Administrative.

- (a) No building or work on any building shall be commenced within the Town without first obtaining a building permit as required by this Article and the codes adopted herein and paying the appropriate building permit fee.
- (b) For any work requiring a contractor licensed or registered pursuant to Section 18-1-80 of this Code, permits under this Article shall only be issued to the contractor or registrant or their authorized representative. It shall be unlawful for any person to fraudulently use a license or registration issued to a contractor or registrant to obtain a permit for another person.
- (c) The Board of Trustees may retain an independent contractor to serve as the Building Department for the Town of Fairplay pursuant to a written contract approved by the Board of Trustees, which contract shall appoint a person to serve as Building Official, and set forth the general duties, responsibilities and requirements of the Building Official. No member of the Building Department shall be an officer of the Town or hold any other elected or appointed office or position within the Town. Members of the independent contractor shall not be considered employees of the Town of Fairplay.

Sec. 18-1-20. Adoption of codes.

- (a) Pursuant to Title 31, Article 16, Part 2, C.R.S., the codes and standards hereinafter described are hereby adopted by reference, subject to the amendments herein set forth. The subject matter of the codes and standards adopted herein includes the regulation of the new construction, alteration and repair of all new and existing structures, along with all plumbing, mechanical, electrical and installations therein or in connection therewith. In case of any conflict between a code adopted herein and any other specific provision of the Fairplay Municipal Code, the specific provision of the Fairplay Municipal Code shall prevail. Copies of the referenced codes and standards are available for public inspection and review by any interested party at ICCSAFE.org and NFPA.org.
- (b) The International Building Code, 2018 Edition, Sixth Printing, November 2021, as amended, and appendix G for flood resistant construction, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, is hereby adopted by reference as the Town of Fairplay Building Code as if fully set out in this Article with the additions deletions insertions and changes as follows:

- (1) IBC Section 101.1. IBC Section 101.1 (Title) is amended by the addition of the term "Town of Fairplay" where indicated.
- (2) IBC Section 105.2 (Work Exempt from Permit) Number 2 is deleted in its entirety
- (3) Add Section 110.7 Reinspections with the following language:
 110.7 Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to

the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.

To obtain a reinspection, the applicant shall file an application therefor in writing and pay the reinspection fee in accordance with the fee established by the building official.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

- (4) Delete from Section 113.1 the following language:

"there shall be and is hereby created a board of appeals."

And substitute the following in its place:

"there shall be a board of appeals created when necessary. The creation shall occur within 60 days from a request for appeal."

- (5) Add Sections 3303.8 and 3303.9 (Demolition) with the following language:

3303.8 Asbestos. Prior to the commencement of demolition, the owner of the property shall either submit to the Town a certification, in a form reasonably acceptable to the Town, that the structure is asbestos-free or submit a plan for removal of asbestos for approval by the building official.

3303.9 Additional requirements. The building official may include as conditions of the demolition permit additional requirements reasonably related to the health, safety and welfare of the Town's residents and the protection of properties in the vicinity.

- (c) The International Residential Code, 2018 Edition, Fourth Printing, September 2020, and appendix J for existing buildings and structures, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, as amended or as is from time to time modified, by the State of Colorado; Department of Regulatory Agencies, as part of the Colorado Plumbing Code and Colorado Fuel Gas Code listed in Rule 3 CCR 720-1 pursuant to the authority granted to the Colorado Plumbing Board by 12-155-105(1)e and 12-155-106(1) and (5), C.R.S., is hereby adopted by reference as the Town of Fairplay Residential Code as if fully set out in this ordinance with the additions deletions insertions and changes as follows:

- (1) IRC Section R101.1. (Title) is amended by the addition of the term "Town of Fairplay" where indicated.
- (2) IRC Section R105.1 (Required) is amended by replacing the words "building official" with "Town," and by adding the following requirement: "Demolition permits. Proof of compliance with the Colorado Department of Public Health and Environment's asbestos program must be submitted to the Town prior to issuance of a demolition permit."
- (3) IBC Section 105.2 (Work Exempt from Permit) Number 2 is deleted in its entirety
- (4) IRC Section 108.6. IRC Section 108.6 (Work commencing before permit issuance) is amended to add the following sentence at the end of the paragraph: "The fee shall be equal to 100% of the original building fee in addition to the required permit fees."
- (5) Delete from Section R112.1 the following language:
 "there shall be and is hereby created a board of appeals."
 And substitute the following in its place:

"there shall be a board of appeals created when necessary. The creation shall occur within 60 days from a request for appeal."

(6) IRC Table R301.2(1). IRC Table R301.2(1) is filled to provide the following:

Table R301.2(1)

Climatic and Geographic Design Criteria

Ground Snow Load ^a	Wind Design				Seismic Design Category	Subject to Damage			Winter Design Temp ^e	Ice Barrier Under-layment Required ^h	Flood Hazards ^g	Air Freezing Index ⁱ	Mean Annual Temp ^j
	Speed (mph) ^d	Topographic effects ^k	Special wind region ^l	Wind-borne debris zone ^m		Weathering ⁿ	Frost line depth ^b	Termite ^c					
65 PSF	Ultimate 110, Nominal 90 Exp. C	Yes	No	No	B	Severe	48 inches	Slight to moderate	2 F	Yes	See Town adopted regulations and Article III	2500	32 F
Manual J Design Criteria ^a													
Elevation	Latitude	Winter heating	Summer cooling	Altitude correction factor	Indoor design temperature	Design temperature cooling	Heating temperature difference						
9953 Ft.	39.22135 N	-14	81	.69	70 F	75 F	84						
Cooling temperature difference	Wind velocity heating	Wind velocity cooling	Coincident wet bulb	Daily range	Winter humidity	Summer humidity							
6	15 mph	7.5 mph	51	High (H)	50%	50%							

(7) Add to the end of R313.2 after the word "dwellings" the following: greater than 6,000 square feet.

(8) IRC Section P3103.1 (roof extension) is amended to read in its entirety:

P3103.1. Roof extension. All open vent pipes which extend through a roof shall be terminated at least 12 inches above the roof or 12 inches above the anticipated snow accumulation, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet (2134 mm) above the roof.

(d) The International Mechanical Code, 2018 Edition, Fourth Printing July 2021, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, is hereby adopted by reference as the Town of Fairplay Mechanical Code as if fully set out in this ordinance with the additions, deletions, insertions and changes as follows:

(1) IMC Section 101.1. IMC Section 101.1 (Title) is amended by the addition of the term "Town of Fairplay" where indicated.

(e) The current Colorado Fuel Gas Code, as currently adopted by the State of Colorado; Department of Regulatory Agencies, or as is from time to time modified, re-enacted or re-adopted by the State of Colorado as listed in Rule 3 CCR 720-1 pursuant to the authority granted to the Colorado Plumbing Board by 12-155-105(1)e and 12-155-106(1) and (5), C.R.S., is hereby adopted by reference as the Town of Fairplay Fuel Gas Code as if fully set out in this ordinance with the additions, deletions, insertions and changes as follows:

(1) IFGC Section 101.1. IFGC Section 101.1 (Title) is amended by the addition of the term "Town of Fairplay" where indicated.

(f) The current Colorado Plumbing Code, as currently adopted by the State of Colorado; Department of Regulatory Agencies, or as is from time to time modified, re-enacted or re-adopted by the State of Colorado as listed in Rule 3 CCR 720-1 pursuant to the authority granted to the Colorado Plumbing Board by 12-155-105(1)e and 12-155-106(1) and (5),

C.R.S., is hereby adopted by reference as the Town of Fairplay Plumbing Code as if fully set out in this ordinance with the additions, deletions, insertions and changes as follows:

- (1) IPC Section 101.1. IPC Section 101.1 (Title) is amended by the addition of the term "Town of Fairplay" where indicated.
 - (2) IPC Section 903.1. IPC Section 903.1 (Roof extension) is amended by inserting "12 inches (203.2 mm)" where indicated.
- (g) The International Property Maintenance Code, 2018 Edition, Second Printing April 2018, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, is hereby adopted by reference as the Town of Fairplay Property Maintenance Code as if fully set out in this ordinance with the additions, deletions, insertions and changes as follows:
- (1) Section 101.1: Insert "Town of Fairplay."
 - (2) Section 102, Applicability, is amended by the addition of a new Subsection 102.11 to read as follows:
 102.11 Conflicts with other provisions. In the event of a conflict between the provision of this code and any other provision of the Fairplay Municipal Code or other codes adopted by the Town, the stricter provision shall govern, it being the intent of the Board of Trustees to strictly enforce requirements pertaining to the health, safety and welfare of the Town's residents and businesses."
 - (3) Section 103, Department of Property Maintenance Inspection, is amended to read as follows:
 103.1 Code Official. The Code Official, as that term is used in this code, shall be the Fairplay Building Official."
 - (4) Section 111.2, Membership of Board, is amended to read as follows:
 "111.2 Board of Appeals. The Board of Appeals, as that term is used in this code, shall be the Fairplay Board of Adjustment created and governed by Chapter 16, Article XXII of the Fairplay Municipal Code."
 - (5) Section 302.4: Insert "twelve (12) inches."
 - (6) Section 602.3: Insert "October 1 to May 1."
 - (7) Section 602.4: Insert "October 1 to May 1."
- (h) The International Existing Building Code, 2018 Edition, Fifth Printing March 2021, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, is hereby adopted by reference as the Town of Fairplay Existing Building Code as if fully set out in this ordinance with the additions, deletions, insertions and changes as follows.
- (1) International Existing Building Code is amended by replacing all references to "ICC Electrical Code" with "Current Code Adopted by the Colorado State Electrical Board."
 - (2) IEBC Section 101.1. IEBC Section 101.1 (Title) is amended by the addition of the term "Town of Fairplay" where indicated.
- (i) The International Energy Conservation Code, 2018 Edition, Fourth Printing March 2020, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, is hereby adopted by reference as the Town of Fairplay Energy Conservation Code as if fully set out in this ordinance with the additions, deletions, insertions and changes as follows:

- (1) IECC Section 101.1. IECC Section 101.1 (Title) is amended by the addition of the term "Town of Fairplay" where indicated.
- (j) The International Swimming Pool and Spa Code, 2018 Edition, Fourth Printing November 2020, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, is hereby adopted by reference as the Town of Fairplay Swimming Pool and Spa Code as if fully set out in this ordinance with the additions, deletions, insertions and changes as follows:
- (1) ISPSC Section 101.1. ISPSC Section 101.1 (Title) is amended by the addition of the term "Town of Fairplay" where indicated.
- (k) The current National Electrical Code, as currently adopted by the State of Colorado; Department of Regulatory Agencies, or as is from time to time modified, re-enacted or re-adopted by the State of Colorado as listed in Rule 3 CCR 710-1 is hereby adopted by reference as the Town of Fairplay Electrical Code as if fully set out in this ordinance.
- (l) The International Wildland-Urban Interface Code, 2018 edition, Second Printing August 2020, and appendix C, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, is hereby adopted by reference as the Town of Fairplay Wildland-Urban Interface Code as if fully set out in this ordinance.

Sec. 18-1-30. Reserved.

Sec. 18-1-40. Purpose.

The purpose of adopting the foregoing code is to protect the public health, safety and general welfare of the inhabitants of the Town by providing for sound and safe structures and prohibiting certain practices.

Sec. 18-1-50. Scope.

The subject matter of the adopted primary code and secondary codes includes the construction, erection and demolition of buildings, providing for the issuance of permits for certain construction and regulating construction practices and establishing standards for construction in the Town.

Sec. 18-1-60. Certificate of occupancy required.

- (a) No building or structure shall be used or occupied and no change in the existing occupancy classification of a building or structure or portion of a building shall be made until the Building Official has issued a certificate of occupancy as provided in the International Building Code. Issuance of a certificate of occupancy shall not be construed as approval of a violation of the provisions of this Code or other ordinance of the Town.
- (b) A temporary certificate of occupancy shall not be issued unless the administrative authority believes that a final certificate of occupancy will be issued within thirty (30) days, the structure is safe and the structure is complete except for minor matters which do not affect the health, safety and welfare of the inhabitants. If the structure is not complete within thirty (30) days of the issuance of a temporary certificate of occupancy and no final certificate of occupancy has been issued within such thirty-day period, a penalty in the amount of one hundred dollars (\$100.00) per day shall accrue for each day the building is occupied in violation of the Section.

Sec. 18-1-70. Violations and penalty.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Code. A person or entity

who violates this Code may be fined in an amount not to exceed two thousand six hundred and fifty dollars (\$2650.00), or imprisoned for not more than one (1) year or suffer both fine and imprisonment. A separate offense shall be deemed committed on each day or portion thereof that the violation of any of the provisions of this Article occurs or continues unabated after the time limit set for abatement of the violation.

Sec. 18-1-80. Contractor's License.

- (a) License required. All persons, general contracting firms, subcontracting firms and other entities engaged in construction work of any kind or nature, including but not limited to general contracting, electrical, plumbing, excavating and concrete finishing within the Town limits shall be licensed under the applicable terms and provisions adopted by the Board of County Commissioners of either or all of Park, Chaffee or Teller counties prior to:
 - (1) applying for any type of building permit for the performance of any construction work within the Town limits; or
 - (2) entering into a contract to perform or performing any construction work within the Town limits.
- (b) Any person or entity that is required hereunder to be licensed to perform construction work may only enter into a contract to perform that type of construction work for which they are licensed by the County.
- (c) Any natural person may construct a single-family dwelling on real property owned by such person without having first obtained a contractor's license from the listed Counties if:
 - (1) the person has been issued a building permit;
 - (2) the construction complies with all applicable building codes and land use regulations;
 - (3) such person does not construct any more than one
 - (1) single-family dwelling unit within any two
 - (2) consecutive calendar year periods; and
 - (4) such single-family dwelling is constructed as such natural person's principal residence.

ARTICLE II Fire Code

Sec. 18-2-10. Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is hereby adopted by reference the International Fire Code, 2018 Edition, Sixth Printing October 2021, including Appendix Chapters B, C, D, E, F, G, H, I, J, K, M, and N, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, for the purpose of establishing fire code standards for fire code enforcement relating to the provision of fire protection to the Town, as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

Sec. 18-2-20. Enforcement.

The code and standards adopted herein shall be enforced by the Northwest Fire Protection District, which shall serve as the Bureau of Fire Prevention for the Town. Organizational structure and duties, if any, shall be as provided by the District's bylaws.

Sec. 18-2-30. Amendments.

The International Fire Code as adopted in this Article shall be amended as follows:

1. 102.4 Amend this section to read **Application of Building Code**. The design and construction of new structures shall comply with the *International Building Code* or *International Residential Code* and the *International Fire Code*, and any alterations, additions,

changes in use or changes in structures required by this code, which are within the scope of the *International Building Code* or *International Residential Code*, shall be made in accordance therewith.

2. 102.7 Amend this section to read **Referenced codes and standards.** The codes and standards referenced in this code shall be the most currently published edition of those that are listed in Chapter 80, and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

3. 105.1.2 Amend item #2 to read. **Types of permits.** 2. Construction permits. A construction permit allows the applicant to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, the likes of which are regulated by this code. A construction permit also allows the applicant to install or modify systems and equipment for which a permit is required by Section 105.7.

4. 105.4.1 Amend this section to read **Submittals.** Construction documents and supporting data shall be submitted with each application for a permit and in such form and detail as required by the fire code official. The construction documents shall be prepared by a registered design professional where required by the jurisdiction in which the project is to be constructed.

5. 105.6.30 Amend this section to read **Mobile food preparation vehicles.** A permit is required for mobile food preparation vehicles equipped with appliances.

6. 105.6.33 Amend this section by removing the Exception. **Open Burning.**

7. 105.7 Amend this section to read **Required Construction Permits.** The fire code official is authorized to issue construction permits for work, or the likes of which are regulated by this code, and as set forth in Section 105.7.1 through 105.7.26.

8. 105.7.25 Amend this section to read **Temporary membrane structures and tents.** A construction permit is required to erect an air-supported temporary membrane structure, a temporary stage canopy or a tent having an area in excess of 200 square feet (18.58 m²).

9. 105.7.26 Add the following section **Wildfire Mitigation.** The holder of a construction permit is required to perform defensible space requirements of Appendix P that do not fall under a voluntary wildfire mitigation program.

10. 108.1.1 Add the following section **Procedures.** To request a hearing before the board of appeals, the applicant shall file a request in writing to the fire chief. The fire chief shall arrange for the board of appeals to meet within 10 working days from the receipt of the request. All applicable fees as stated in the fire district or fire authority fee schedule shall be paid at the time the written request is made.

11. 108.3 Amend this section to read **Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of

fire, explosions, hazardous conditions, or fire protection systems.

12. 109.4 Amend this section to read **Violation penalties**. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine or by imprisonment, or both such fine and imprisonment as determined by the court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

13. 111.4 Amend this section to read **Failure to comply**. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine as determined by the court and shall be subject to a fee as adopted by the fire district or fire authority.

14. Amend or add the following definitions:

CONTROLLED BURNING. Any fire intentionally ignited to meet specific land management objectives, such as to reduce flammable fuels, restore forest or ecosystem health, recycle nutrients, or prepare an area for new trees or vegetation. Controlled burning may also be known by the terms “Prescribed Burning” or “Pile Burning.”

DEFENSIBLE SPACE. The selection, location, grouping, and maintenance of vegetation on the property in such a manner that the opportunity for fire to burn directly to a structure is minimized.

FIRE AREA. The aggregate floor area enclosed and bounded by fire walls meeting the requirements of Section 706 of the International Building Code and exterior walls or horizontal assemblies of a building. Areas of the building not provided with surrounding walls shall be included in the fire area if such areas are included within the horizontal projection of the roof or floor above. For buildings constructed under the International Residential Code, the fire area is the aggregate floor area enclosed and bounded by exterior walls of a building.

FIREWISE® LANDSCAPING is defined as trees, shrubs, and other materials which meet the criteria for fire resistant landscaping.

GROUND FUELS. All combustible materials on, in or near the ground such as grass, duff, loose surface litter, tree or shrub roots, rotting wood, leaves, peat, or sawdust that typically support combustion.

MITIGATION. Action that moderates the severity of a fire hazard or risk.

MOBILE FOOD PREPARATION VEHICLES. Vehicles that contain cooking

equipment for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

MOBILE FUELING. The operation of dispensing liquid fuels from tank vehicles into the fuel tanks of vehicles. Mobile fueling may also be known by the terms “Mobile fleet fueling,” “Wet fueling,” “Wet hosing,” or “Hot fueling.”

PERMANENT FIRE RING. A permanently constructed feature without air gaps in its surrounding sides and a solid bottom, or earthen bottom free of roots and other organic material, used to contain campfires and prevent them from spreading and turning into a wildfire.

PORTABLE OUTDOOR FIREPLACE. A commercially designed and manufactured device with a screen that prevents ember emissions.

RECREATIONAL FIRE. An outdoor fire on private land contained to a commercially designed and manufactured fireplace, a permanent outdoor fireplace, or a portable outdoor fireplace that is assembled, located, and operated in accordance with the manufacturer’s or designer’s instructions. The fire shall not exceed a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610mm) or less in height. A non-toxic fuel source such as wood or gas (i.e. propane or natural gas) must be used and the fire is intended for pleasure, religious, ceremonial, cooking, warmth or similar purposes. A recreational fire shall not be used for the purpose of waste removal or trash incineration.

STRUCTURE IGNITION ZONE. The area around a specific structure and associated accessory structures, including all vegetation that contains potential ignition sources and fuels.

TREE CROWN. The needle or leaf-bearing part of a tree. The crown edge is the tree’s drip edge.

WILDLAND-URBAN INTERFACE. An area where wildland fuels abut structures, with a clear line of demarcation between residential, business, and public structures and wildland fuels.

OCCUPANCY CLASSIFICATION.

Institutional Group 1-1 - Five or fewer persons receiving care. A facility such as the above with five or fewer persons receiving such care shall be classified as Group R-3 or shall comply with the International Residential Code provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3.

Institutional Group 1-2 - Five or fewer persons receiving care. A facility such as the above with five or fewer persons receiving such care shall be classified as Group R-3 or shall comply with the International Residential Code provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3.

Residential Group R-3 - Care facilities within a dwelling. Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the International Residential Code provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3.

15. 304.1.2 Amend this section to read **Vegetation.** Weeds, grass, vines or other growth that is capable of being ignited and endangering property, shall be cut down and removed by the owner or occupant of the premises. Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with Appendix P, local codes, policies, and ordinances.

16. 304.3.3 Amend to add Exception #3. **Capacity exceeding 1.5 cubic yards.**
3. Storage in a structure shall not be prohibited where the structure is in compliance with local codes, policies, and ordinances as mandated by the authority having jurisdiction.

17. 304.3.4 Amend to add Exception #3. **Capacity of 1 cubic yard or more.**
3. Storage in a structure shall not be prohibited where the structure is in compliance with local codes, policies, and ordinances as mandated by the authority having jurisdiction.

18. 308.1.4 Amend this section and exception #3 and add exception #4 to read. **Open-flame cooking devices.** Charcoal burners, wood pellet burners, and other open-flame cooking devices shall not be operated on combustible balconies or within 10 feet (3048 mm) of combustible construction.

3. LP-gas cooking devices having LP-gas container with a water capacity not greater than ~~2-1/2~~ 48 pounds [nominal 20 pounds (9.1 kg) LP-gas capacity].

4. Where a more restrictive code, policy, ordinance, or covenant exists.

19. 311.2.2 Amend exception #3 to read. **Fire protection.** 3. 3. Where approved by the fire code official, fire alarm and sprinkler systems are permitted to be placed out of service in seasonally occupied buildings: that will not be heated, where fire protection systems will be exposed to freezing temperatures, where fire areas do not exceed 6,000 square feet (557.42 m²), and/or that do not store motor vehicles or hazardous materials.

20. 315.3 Amend this section to read **Storage in buildings.** Storage of materials in buildings shall be orderly and stacks shall be stable. Storage of combustible materials shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur. Storage room doors shall be provided with approved signs.

21. 315.3.1 Amend exceptions #1 and #2 to read. **Ceiling clearance.**
1. The 2-foot (610 mm) ceiling clearance is not required for storage along walls in nonsprinklered areas of buildings where the storage does not exceed 30-inches (762 mm) in depth.
2. The 18-inch (457 mm) ceiling clearance is not required for storage along walls in areas of buildings equipped with an automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 where the storage does not exceed 30-inches (762 mm) in depth.

22. 315.3.3 Amend this section to read **Equipment rooms**. Combustible material shall not be stored in boiler rooms, mechanical rooms, electrical equipment rooms, and other rooms where a potential ignition source exists, as determined by the fire code official.

23. 319.1 Amend this section to read **General**. Mobile food preparation vehicles that are equipped with appliances shall comply with this section.

24. 319.4.1 Amend this section to read **Fire protection for cooking equipment**. Cooking equipment that produces smoke or grease-laden vapors shall be protected by automatic fire extinguishing systems in accordance with Section 904.12.

25. 319.8 Amend this section to read **LP-gas systems**. Where LP-gas systems provide fuel, such systems shall comply with Chapter 61 and Sections 319.8.1 through 319.8.5.

26. 403.12.3 Amend this section to read **Crowd managers**. Where facilities or events involve a gathering of 500 people or more, crowd managers shall be provided in accordance with Sections 403.12.3.1 through 403.12.3.3.

27. 403.12.3.1 Amend exceptions #1 and #2 to read **Number of crowd managers**.
 1. Outdoor events with fewer than 500 persons in attendance shall not require crowd managers.
 2. Assembly occupancies used exclusively for religious worship with an occupant load not exceeding 500 shall not require crowd managers.

28. 505.1 Amend this section to read **Address identification**. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 5 inches (127 mm) high, unless otherwise approved, with a minimum stroke width of .5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or sign or means shall be used to identify the structure. Address numbers shall be maintained.

29. 508.1 Amend this section to read **General**. Where required by other sections of this code, buildings, structures, or facilities that are more than 4 stories (including basements) in height or are greater than 50,000 square feet (4645 m²) within surrounding exterior walls, and in all buildings classified as high-rise buildings by the International Building Code, a fire command center for fire department operations shall be provided and shall comply with Sections 508.1.1 through 508.1.6.

30. 508.1.5 Amend this section to read **Features**. A Fire Command Center shall be required in buildings, structures, or facilities that are more than 4 stories (including basements) in height or are greater than 50,000 square feet (4645 m²) within surrounding exterior walls. The fire command center shall be provided and comply with Sections 508.1.1 through 508.1.6.

31. 603.6.6 Add a section to read **Chimneys and Heating Appliances**. Chimneys and fireboxes for solid, fuel burning appliances shall be inspected annually by a qualified individual or company. They shall be inspected for soundness, corrosion, proper support, and freedom from combustible deposits. A certificate of inspection in a form acceptable to the fire code official shall be forwarded to the fire department upon completion.

32. 603.9 Amend this section to read **Gas and utility meters**. Above-ground gas and utility meters, regulators and piping subject to damage shall be protected by a barrier complying with Section 312 or otherwise protected in an approved manner. Gas and utility meters and piping shall be protected from snow & ice shedding from a roof area. Areas around gas and utility meters shall be kept clear of snow and ice build-up at all times.

33. 606.9 Add a section to read **Communication**. All elevators shall be equipped with two-way communication equipment and the equipment shall be operable at all times. Exception: One- and two-family dwellings

34. 701.2.2 Add section to read **Fire-resistance-rated labeling**. The fire-resistance rating shall be marked in an approved manner on the following fire resistance rated construction features: 1. Structural members 2. Exterior walls 3. Fire walls, fire barriers, fire partitions 4. Horizontal assemblies 5. Shaft enclosures

35. 701.3.1 Add section to read **Smoke barriers labeling**. The fire-resistance rating and smoke-resistant characteristics of smoke barriers shall be marked in an approved manner on the rated construction feature.

36. 803.13 Amend this section to read **Laminated products factory produced with an attached wood substrate**. Laminated products factory produced with or without an attached wood substrate shall comply with one of the following:

37. 901.4.2 Amend this section to read **Nonrequired fire protection systems**. A fire protection system or portion thereof not required by this code, the *International Building Code*, or the *International Residential Code* shall be installed throughout a building for complete protection provided that such installed system meets the applicable requirements of this code, the *International Building Code*, and the *International Residential Code*.

38. 901.4.3 Amend this section to read **Fire areas**. Where buildings, or portions thereof, are divided into fire areas so as not to exceed the limits established for requiring a fire protection system in accordance with this chapter, such fire areas shall be separated by fire walls constructed in accordance with the *International Building Code* or horizontal assemblies constructed in accordance with the *International Building Code*, or both, having a fire-resistance rating of not less than that determined in accordance with the *International Building Code*.

39. 901.7 Amend this section to read **Systems out of service**. Where a required fire protection system is out of service, the fire department shall be notified immediately and where required by the fire department, the building shall either be evacuated or an approved fire watch

shall be provided for all occupants left unprotected by the shutdown until the fire protection system has been returned to service.

40. 901.9 Amend this section to read **Termination of monitoring services**. For fire alarm protection systems required to be monitored by the authority having jurisdiction, notice shall be made to the fire code official whenever system monitoring services are terminated. Notice shall be made in writing, to the fire code official by the provider of the monitoring service being terminated.

41. 903.2.1 Amend this section to read **Group A**. An automatic fire sprinkler system shall be provided throughout buildings as Group A occupancies as provided in this section.

42. 903.2.1.1 Amend this section to read and delete conditions #3 and #4 **Group A-1**. **903.2.1.1 Group A-1**. An automatic sprinkler system shall be provided throughout buildings containing Group A-1 occupancies where one of the following conditions exists:

1. The fire area exceeds 6,000 square feet (557 m²).
2. The fire area has an occupant load of 50 or more.

43. 903.2.1.2 Amend this section to read and delete condition #3 **Group A-2**. An automatic sprinkler system shall be provided throughout buildings containing Group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464 m²).
2. The fire area has an occupant load of 50 or more.

44. 903.2.1.3 Amend this section to read and delete condition #3 **Group A-3**. An automatic sprinkler system shall be provided throughout stories buildings containing Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 6,000 square feet (557 m²).
2. The fire area has an occupant load of 50 or more.

45. 903.2.1.4 Amend this section to read and delete condition #3 **Group A-4**. An automatic sprinkler system shall be provided throughout buildings containing Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 6,000 square feet (557 m²).
2. The fire area has an occupant load of 50 or more.

46. 903.2.1.6 Amend this section to read and delete the exception **Assembly occupancies on roofs**. Where an occupied roof has an assembly occupancy with an occupant load exceeding 50 for Group A occupancies, an automatic sprinkler system shall be provided throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

47. 903.2.1.7 Amend this section to read **Multiple fire areas**. An automatic sprinkler system shall be provided where multiple fire areas of Group A-1, A-2, A-3 or A-4 occupancies share exit or exit access components and the combined occupant load of these fire areas is 50 or more.

48. 903.2.2 Amend this section to read and delete the exception **Ambulatory care facilities.** An automatic sprinkler system shall be installed throughout the entire building containing an ambulatory care facility where either of the following conditions exist at any time:

1. Four or more care recipients are incapable of self-preservation.
2. One or more care recipients that are incapable of self-preservation are located at other than the level of exit discharge serving such a facility.

49. 903.2.3 Amend conditions #1 and #3 to read and delete the exception **Group E.** An automatic sprinkler system shall be provided for Group E occupancies as follows:

1. Throughout all Group E fire areas greater than 6,000 square feet (557 m²) in area.
3. The Group E fire area has an occupant load of 50 or more.

50. 903.2.4 Amend this section and conditions #1, #2, #3, and #4 to read **All Group F.** An automatic sprinkler system shall be provided throughout all buildings containing a Group occupancy where one of the following conditions exists:

1. A Group F fire area exceeds 6,000 square feet (557 m²).
2. A Group F fire area is located more than two stories above grade plane.
3. The combined area of all Group F fire areas on all floors, including any mezzanines, exceed 6,000 square feet (557 m²).
4. A Group F occupancy used for the manufacture of upholstered furniture or mattresses exceeds 2,500 square feet (232 m²).

51. 903.2.6 Amend exception #3 to read **Group I.**
3. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed.

52. 903.2.7 Amend conditions #1, #2, and #3 to read **Group M.**
1. A Group M fire area exceeds 6,000 square feet (557 m²).
2. A Group M fire area is located more than two stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 6,000 square feet (557 m²).

53. 903.2.9 Amend conditions #1, #2, and #3 to read **Group S-l.**
1. A Group S-l fire area exceeds 6,000 square feet (557 m²). 2. A Group S-l fire area is located more than two stories above grade plane.
3. The combined area of all Group S-l fire areas on all floors, including any mezzanines, exceeds 6,000 square feet (557 m²).

54. 903.2.9.1 Amend conditions #1 and #2 to read **Repair garages.**
1. Buildings having two or more stories above grade plane, including basements, with a fire area containing a repair garage exceeding 6,000 square feet (557 m²).
2. Buildings not more than one story above grade plane, with a fire area containing a repair garage exceeding 6,000 square feet (557 m²).

55. 903.2.9.2 Amend this section to read **Bulk storage of tires.** Buildings and structures where the area for the storage of tires exceeds 10,000 cubic feet (283 m³) shall be equipped

throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

56. 903.2.10 Amend condition #1 to read **Group S-2 enclosed parking garages.**

1. Where the fire area of the enclosed parking garage exceeds 6,000 square feet (557 m²).

57. 903.2.11.1 Amend this section to read **Stories without openings.** An automatic sprinkler system shall be installed throughout all buildings, where the floor area of the story exceeds 1,500 square feet (139 m²) and where the story does not comply with the following criteria for exterior wall openings:

58. 903.2.11.1.2 Amend this section to read **Openings on one side only.** Where openings in a story are provided on only one side and the opposite wall of such story is more than 75 feet (22 860 mm) from such openings, the building shall be equipped throughout with an approved automatic sprinkler system, or openings shall be provided on not fewer than two sides of the story.

59. 903.2.11.1.3 Amend this section to read **Basements.** Where any portion of a basement is located more than 75 feet (22 860 mm) from openings required by Section 903.2.11.1, or where walls, partitions or other obstructions are installed that restrict the application of water from hose streams, the building shall be equipped throughout with an approved automatic sprinkler system.

60. 903.2.11.3 Delete exceptions #1 and #2 **Buildings 55 feet or more in height.**

61. 903.2.13 Add a new section to read **Group B or Mixed Occupancies.** An automatic sprinkler system shall be provided throughout all buildings containing Group B or mixed occupancies where one of the following conditions exists:

1. The fire area exceeds 6,000 sq. ft. (577 m²).
2. Where the combined fire areas of Group B and mixed occupancies on all floors including mezzanines and basements is greater than 6,000 sq. ft. (577 m²).

62. 903.2.14 Add a new section to read **Buildings Constructed under the International Residential Code.** An automatic sprinkler system installed in accordance with Section 903.3.1.3 shall be provided throughout all detached one and two-family dwellings and multiple single-family dwellings (townhouses), complying with the requirements of the International Residential Code, whose total aggregate fire area exceeds 6,000 square feet (577 m²). Exception: Unless otherwise required by more restrictive local codes, policies, amendments, ordinances, or plat note.

63. 903.3.1.3 Amend this section to read **NFPA 13D sprinkler systems.** Automatic sprinkler systems installed in one- and two-family dwellings; Group R-3; Group R-4, Condition 1; and townhouses shall be permitted to be installed throughout in accordance with NFPA 13D and local codes, ordinances, and policies.

64. 903.3.8 Amend this section to read **Limited area sprinkler systems.** Limited area sprinkler systems as required in the International Residential Code shall be in accordance with the standards listed in Section 903.3.1 except as provided in Sections 903.3.8.1 through

903.3.8.5.

65. 903.4 Amend exception #1 to read and delete exceptions #2, #3. and #5 **Sprinkler system supervision and alarms.**

1. Automatic sprinkler systems valves, pumps, and tanks in one- and two-family dwellings.

66. 905.3 delete the exception. **Required installations.**

67. 905.3.1 Amend this section and conditions #2 and #3 to read and delete condition #1 **Height.** Class I standpipe systems shall be installed throughout buildings where any of the following conditions exist:

2. The floor level of the highest story is located more than 20 feet (603.5 m) above the lowest level of the fire department vehicle access. 3. The floor level of the lowest story is located more than 20 feet (603.5 m) below the highest level of fire department vehicle access.

68. 905.3.1.1 Add a new section to read **Building Area.** In buildings exceeding 10,000 sq. ft. (929 m²) within surrounding exterior walls, an approved Class I standpipe system shall be provided where any portion of the building's interior is more than 140 feet (42.67 m) of travel, vertically and/or horizontally, from the nearest point of fire department vehicle access.

69. 905.4 Amend conditions #1 and #6 of this section to read **Location of Class I standpipe hose connections.**

1. In every required interior exit stairway, a hose connection shall be provided for each story above and below grade plane. Hose connections shall be located at the intermediate landing unless otherwise approved by the fire code official. 6. Where the most remote portion of a nonsprinklered floor or story is more than 140 feet (42 720 mm) from a hose connection or the most remote portion of a sprinklered floor or story is more than 200 feet (60 960 mm) from a hose connection, the fire code official is authorized to require that additional hose connections be provided in approved locations.

70. 907.6.6 Amend this section to read and delete exception #3 **Monitoring.** Fire protection systems required by this chapter, the International Building Code, or the International Residential Code shall be monitored by an approved supervising station in accordance with NFPA 72.

71. 915.1 Amend this section to read **General.** Carbon monoxide detection shall be installed in new buildings in accordance with Sections 915.1.1 through 915.6 and in accordance with State Statute. Carbon monoxide detection shall be installed in existing buildings in accordance with Section 1103.9 and in accordance with State Statute.

72. 1010.1.9.4 Amend this condition 2.2 to read **Locks and latches.** 2.2. A readily visible, durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED DURING BUSINESS HOURS. The sign shall be in letters 1 inch (25 mm) high on a contrasting background.

73. 1103.5 Amend this section to read **Sprinkler systems.** An automatic sprinkler system shall be provided in existing buildings in accordance with Sections 1103.5.1 through 1103.5.5.

74. 1103.5.5 Add a new section to read **Additions and alterations to existing buildings.** Existing buildings constructed prior to adoption of this code, with a fire area exceeding 6,000 square feet (577 m²), undergoing additions, alterations or remodel work shall be evaluated under the International Fire Code, for the need for additional fire protection. Portions of buildings separated by approved fire walls as outlined in Chapter 7, Section 707 of the International Building Code may be considered as separate buildings.

75. 1103.5.5.1 Add a new section to read **Existing buildings with a fire area not exceeding 6,000 sq. ft. (577 m²).** An automatic sprinkler system shall be provided throughout a building undergoing an addition and/or alteration work whose new aggregate fire area of the building exceeds 6,000 square feet (464 m²).

76. 1103.5.5.2 Add a new section to read **Existing buildings with a fire area exceeding 6,000 sq. ft. (577 m²).** An automatic sprinkler system shall be provided throughout a building undergoing addition work that increases the fire area of the existing building.

77. 1103.5.5.3 Add a new section to read **Alterations to existing buildings with a fire area exceeding 6,000 sq. ft. (577 m²).** An automatic sprinkler system shall be provided throughout a building when the area undergoing alterations equals or exceeds 50% of the aggregate fire area of the building. Exception: Alterations limited to the removal and replacement or the covering of existing materials, elements, equipment, or fixtures using the same materials, elements, equipment or fixtures that serve the same purpose.

78. 1103.6.1 Amend this section to read **Existing multistory buildings.** Existing buildings with occupied floors located more than 40 feet (12192 mm) above the lowest level of fire department access or more than 40 feet (12192 mm) below the highest level of fire department access shall be equipped with standpipes.

79. 1103.9 Amend this section to read **Carbon monoxide alarms.** Carbon monoxide alarms shall be installed in existing dwelling units and sleeping units where those units include any of the conditions identified in Section 915.1. The carbon monoxide alarms shall be installed in the locations specified in Section 915.2 and the installation shall be in accordance with Section 915.4.

80. 2403.2.7 Amend this section to read **Welding warning signs.** Welding, cutting and similar spark-producing operations shall not be conducted in or adjacent to flammable vapor areas or dipping or coating operations unless precautions have been taken to provide safety. Conspicuous signs with the following warning shall be posted in the vicinity of flammable vapor areas, dipping operations and paint storage rooms:

NO WELDING
THE USE OF WELDING OR
SIMILAR SPARK-PRODUCING
EQUIPMENT IN OR NEAR THIS AREA
IS DANGEROUS BECAUSE OF FIRE

AND EXPLOSION HAZARDS. WELDING
AND CUTTING SHALL BE DONE ONLY
UNDER THE SUPERVISION OF THE
PERSON IN CHARGE.

81. 3103.2 Amend this section to read and delete exceptions #2, #2.1, #2.2 and #2.3
Approval required. Tents and membrane structures having an area in excess of 200 square feet (19 m²) shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the fire code official.

82. 3103.6 Amend this section to read **Construction documents.** A detailed site and floor plan for tents or membrane structures shall be provided with each application for approval. The tent or membrane structure floor plan shall indicate details of the means of egress facilities, seating capacity, arrangement of the seating and location and type of heating and electrical equipment. See fire code official for additional local requirements.

83. 3105.2 Amend this section to read **Approval.** Temporary special event structures in excess of 200 square feet (18.58 m²) shall not be erected, operated or maintained for any purpose without first obtaining approval and a permit from the fire code official and the building official.

84. 5001.1 Amend exception #10 to read **Scope.**
10. The storage of wines in wooden barrels and casks.

85. 5104.2.2 Amend this section to read **Aerosol cooking spray products.** Storage of aerosol cooking spray products in A, B, E, F, M, and R occupancies shall not be more than 1,000 pounds (454 kg) net weight.

86. 5701.2 Amend condition #10 section to read **Nonapplicability.**
10. The storage of wines in wooden barrels and casks.

87. Chapter 80 Amend this section to add **Referenced Standards NFPA 1— 2015 Fire Code Chapter 38.**

88. Table B105.1(1) Amend this section to read

TABLE B105.1(I)
REQUIRED FIRE FLOW FOR ONE- AND TWO-FAMILY DWELLINGS, GROUP
R-3 AND R-4
BUILDINGS AND TOWNHOUSES

FIRE-FLOW CALCULATION AREA (square feet)	AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE FLOW (gallons per minute)	FLOW DURATION (hours)
0-3,600	No automatic sprinkler system	1,000	1

3,601 and greater	No automatic sprinkler system	Value in Table B105.1(2)	Duration in Table B105.1(2) at the required fire-flow rate
0-3,600	Section 903.3.1.3 of the International Fire Code	500	1/2
3,601 and greater	Section 903.3.1.3 of the International Fire Code	½ value in Table B104.1(2)	1

89. D103.6 Amend this section to read **Signs.** Where required by the fire code official, fire apparatus access roads shall be marked with permanent NO PARKING— FIRE LANE signs complying with Figure DI 03.6. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by Section D103.6.1 or DI03.6.2 and at intervals as required by the Fire Code Official.

90. J101.1 Amend this section to read New buildings shall have a building information sign(s) that shall comply with Sections J101.1.1 through J101.7. Existing buildings may be brought into conformance with Sections J 101.1 through J101.9 when one of the following occurs:

91. N103.3 Amend this section to read N103.3 Crowd managers. Where events involve a gathering of more than 500 people, trained crowd managers shall be provided in accordance with Section 403.12.3.

92. Add new appendix to read **Appendix O: Fire Regulations** - This appendix helps land management agencies reduce fire risk and prevent wildfires within Summit County where there is above average exposure to the Wildland Urban Interface (WUI).

SECTION 0101 GENERAL

0101.1 **Scope.** This appendix is intended to identify the restrictions to recreational fires, open burning, fire management, smoking, and using internal combustion engines under conditions not covered by any Federal, State, or Local fire restrictions.

SECTION 0201 DEFINITIONS

0201.1 **Definitions.** The following terms are defined in Chapter 2:

Controlled Burning

Open Burning

Permanent Fire Ring

Portable Outdoor Fireplace

Recreational Fire

SECTION 0301 RECREATIONAL FIRE

0301.1 Recreational Fire. Outdoor recreational fires on private property shall be allowed under the following conditions:

1. A valid permit has been issued.
2. The fire is contained to:
 - 2.1 Permanent outdoor fireplace or fire ring with a screen to reduce the spread of embers.
 - 2.2 Portable outdoor fireplace that is assembled, located, and operated in accordance with the manufacturer's instructions with a screen to reduce the spread of embers.
 - 2.3 A commercially designed chiminea with a screen to reduce the spread of embers.
3. The area directly underneath the fireplace or chiminea is barren of flammable material.
4. The fireplace or chiminea is located at least 15 feet (4.572 m) from any flammable material and/or structure.
5. The fire is contained within an approved fireplace or fire ring and the fire has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (1.2192 m) or less in height and utilizes a non-toxic fuel source such as wood or charcoal.

Exception:

1. Fires built within designated dispersed camping sites or picnic areas contained within a permanent metal fire ring as long as the fire has a total fuel area of 3 feet (0.9144 m) or less in diameter and 2 feet (1.2192 m) or less in height and utilizes a wood or charcoal.
2. Fires contained within a fireplace, stove, wood burning stove, or pellet stove designed for and located within a fully enclosed permanent structure.

0301.2 Fire Prevention Measures. Individuals operating a fire in compliance with the 0301.1 shall provide the following safety equipment to prevent the spread of the fire:

1. The fire shall be constantly attended by a responsible adult.
2. The fire shall be extinguished and cool to the touch prior to leaving the site unattended.
3. There shall be available for immediate utilization one of the following:
 - 3.1 A portable fire extinguisher with a minimum 2A-10B:C rating.
 - 3.2 A 5 gallon container filled with water.
 - 3.3 A charged garden hose available for immediate utilization.

SECTION 0401 CONTROLLED BURNING

0401.1 Controlled burning. Burning for the purposes of meeting specific land management objectives, such as to reduce flammable fuels, restore ecosystem health, recycle nutrients, or prepare an area for new trees or vegetation shall be allowed under the following conditions:

1. A valid permit has been issued.

2. The fire shall be constantly attended by a responsible adult.
3. The fire shall be extinguished and cool to the touch prior to leaving the site unattended.
4. Within the approved burn site, the fire has a total fuel area of 8 feet (2.4384 m) or less in diameter and 4 feet (1.2192 m) or less in height.
5. There shall be available for immediate utilization one of the following:
 - 5.1 A portable fire extinguisher with a minimum 2A-10B:C rating.
 - 5.2 A 5 gallon container filled with water.
 - 5.3 A charged garden hose available for immediate utilization.
6. The approved burn area is located at least 50 feet (15.24 m) from any flammable material and/or structure.

0401.2 Fire Management. Fires caused or administered by any Federal, State, or Local officer or member of an organized rescue or firefighting force shall be permitted if the following conditions are met:

1. Notice is given to the fire department or Fire Code Official.
2. The fire is performed as part of an official duty.

0401.3 Restrictions. The Fire Code Official has the right to restrict controlled burning to certain times of the year outside the scope of Federal, State, or Local fire restrictions.

SECTION 0501 SMOKING

0501.1 Outdoor Smoking. Outdoor smoking shall be permitted under the following conditions:

1. The individual smoking shall be at least 3 feet (0.914 m) away from natural vegetation and/or flammable materials.
2. All burning objects shall be properly extinguished and disposed of in a sealed container.

SECTION 0601 USE OF INTERNAL COMBUSTION ENGINES

0601.1 General. The operation of a chainsaw, trimmer, mower, or similar internal combustion engine driven equipment shall be permitted under the following conditions:

1. The operator shall have a 2A-10B:C rated dry chemical fire extinguisher available for immediate use.
2. The engine shall be equipped with an approved spark arresting device.

SECTION 0701 FIREWORKS AND EXPLOSIVES

0701.1 Fireworks. The use and sale of recreational fireworks shall be prohibited.

Exception: Fireworks permitted under Town or County codes and/or ordinances.

0701.2 **Explosives.** The use and sale of recreational explosives including explosive targets or tracer ammunition shall be prohibited.

Exception: Explosives permitted under Town or County codes and/or ordinances.

SECTION 0801 OPEN FLAME DEVICES

0801.1 **Open flame torch devices.** The use of any open flame torch device shall be permitted under the following conditions:

1. A valid permit has been issued.
2. The operator shall have a 2A-10B:C rated dry chemical fire extinguisher available for immediate use. The use of the device shall be at least 15 feet (4.572m) away from natural vegetation and/or flammable materials.

93. Add new appendix to read **Appendix P: Wildfire Mitigation** - This appendix provides requirements for wildfire mitigation where not otherwise regulated by local ordinances.

SECTION P101 GENERAL

P101.1 **Scope.** This appendix provides a methodology for reducing wildland fire ignition hazards around structures that will be located in a wildland-urban interface area and provides minimum requirements to reduce the potential of structure ignition from wildland fires while ensuring continuity between required and voluntary mitigation activities.

SECTION P201 DEFINITIONS

P201.1 **Definitions.** The following terms are defined in Chapter 2:

Defensible Space
Firewise® Landscaping
Ground Fuels
Mitigation
Structure Ignition Zone
Tree Crown
Wildland-Urban Interface

SECTION P301 FUEL MODIFICATION AREA

P301.1 **General.** The property shall be divided into three zones. These zones are (Figure P301):

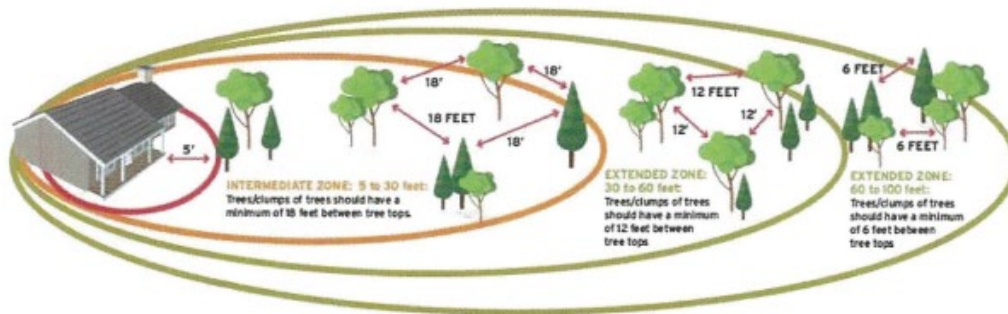
1. The Immediate Zone — 0 to 5 feet from the furthest attached exterior point of the home
2. The Intermediate zone -- 5 to 30 feet from the furthest attached exterior point of the home.
3. The Extended Zone, 30 to 60 feet and 60 to 100 feet from the furthest attached exterior

point of the home.

Exception:

1. Nothing in this appendix shall require the removal of healthy trees, shrubs, and other landscaping materials required by a Town or the County as part of an approved landscaping plan.
2. Property past a property line.

FIGURE P301



**SECTION P401
THE IMMEDIATE ZONE**

P401.1 General. This is the most important zone of the defensible space, according to the Firewise® program, to take immediate action on as it is the most vulnerable to embers. The following specific standards apply to the creation of defensible space within the Immediate Zone:

1. All dead and diseased trees, shrubs, and other landscaping materials shall be removed.
2. All vegetation and combustible and flammable materials shall be moved away from exterior walls, under the eaves, and or decks. This includes:
 - 2.1 Mulch
 - 2.2 Ground fuels
 - 2.3 Flammable plants
 - 2.4 Leaves and needles
 - 2.5 Firewood piles

**SECTION P501
THE INTERMEDIATE ZONE**

P501.1 General. This is the landscaping/hardscaping zone of the defensible space through the use of careful landscaping or creating breaks that can help influence and decrease fire behavior. The following specific standards apply to the creation of defensible space within the Intermediate Zone:

1. All dead and diseased trees, shrubs, and other landscaping materials shall be removed.

2. Removal of ladder fuels (vegetation under trees) shall occur so a surface fire cannot reach the crowns of the trees.

a. Limb up trees to a height of 10 feet. For shorter trees, trim to a height of 1/3 of the overall tree height.

3. Trees shall be spaced to have a minimum of eighteen feet between the crowns with the distance increasing with the percentage of slope.

4. Firewise® trees and shrubs in this zone should be limited to small clusters of a few each to break up the continuity of the vegetation across the landscape.

5. Irrigated trees, shrubs, and other landscaping material shall be preserved if they are limbed to remove dead branches and well-spaced to reduce the risk of a fire spreading to other vegetation or structures.

SECTION P601 THE EXTENDED ZONE UP TO 60 FEET

P601.1 General. This zone focuses on interrupting a fire's path and keeping the flames smaller and on the ground by:

1. All dead and diseased trees, shrubs, and other landscaping materials shall be removed.
2. The accumulation of ground litter and debris shall be disposed of or dispersed.
3. Small conifers growing between mature trees shall be removed.
4. Vegetation adjacent to storage or other outbuildings shall be removed.
5. Trees shall be spaced to have a minimum of twelve feet between the crowns with the distance increasing with the percentage of slope.

SECTION P701 THE EXTENDED ZONE OVER 60 FEET

P701.1 General. This zone focuses on interrupting a fire's path and keeping the flames smaller and on the ground by:

1. All dead and diseased trees, shrubs, and other landscaping materials shall be removed.
2. The accumulation of ground litter and debris shall be disposed of or dispersed.
3. Small conifers growing between mature trees shall be removed.
4. Vegetation adjacent to storage or other outbuildings shall be removed.
5. Trees shall be spaced to have a minimum of six feet between the crowns with the distance increasing with the percentage of slope.

Sec. 18-2-50. Enforcement.

The Chief shall enforce this Code in accordance with the procedures set forth in this Code and C.R.S. § 32-1-1002(1)(d).

Sec. 18-2-60. Penalty for violation.

- (a) It shall be unlawful for any person, firm, corporation or other entity to violate any of the provisions of this Article.
- (b) Any person, firm corporation or other entity violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and each such person, firm, corporation or entity, upon conviction of any violation of this Article, shall be punished by a fine of not more than

three hundred dollars (\$1000.00) or be imprisoned for not more than one (1) year or both such fine and imprisonment for each offense.

- (c) When a violation of any section of this Article or any part of the adopted code occurs and continues for more than one (1) day, each day or portion thereof such violation occurs or continues shall constitute a separate offense.

ARTICLE III Flood Damage Prevention

Sec. 18-3-10. Statutory authorization.

The Legislature of the State has, in Title 29, Article 20, C.R.S., delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Trustees hereby adopts the following floodplain management regulations.

(Ord. 2013-6 §1)

Sec. 18-3-20. Findings of fact.

- (a) The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. 2013-6 §1)

Sec. 18-3-30. Statement of purpose.

It is the purpose of this Article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is located in a flood hazard area.

(Ord. 2013-6 §1)

Sec. 18-3-40. Methods of reducing flood losses.

In order to accomplish its purposes, this Article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. 2013-6 §1)

Sec. 18-3-50. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

100-year flood means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms one-hundred-year flood and one-percent-chance flood are synonymous with the term 100-year flood. The term does not imply that the flood will necessarily happen once every one hundred (100) years.

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-year flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance annual flood). The term does not imply that the flood will necessarily happen once every five hundred (500) years.

500-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Addition means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides.

Channel means the physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR) means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into fifty (50) titles that represent broad areas subject to federal regulation.

Community means any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

Conditional letter of map revision (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Section 18-11-240.

Development means any man-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 means 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) means the FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

Elevated building means a non-basement building (i) 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 (ii) 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 floodwaters.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

Federal Register means the official daily publication for Rules, proposed Rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of water from channels and reservoir spillways;
- b. The unusual and rapid accumulation or runoff of surface waters from any source; or
- c. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas, such as earth carried by a current of water and deposited along the path of the current.

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains the flood insurance rate map as well as flood profiles for studied flooding sources that can be used to determine base flood elevations for some areas.

Floodplain or flood-prone area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain Administrator means the community official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit means a permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this Article.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and/or nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half ($\frac{1}{2}$) foot (six [6] inches). Letters of map revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- a. 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;
- b. 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 of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

Letter of map revision (LOMR) means FEMA's official revision of an effective flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs) or the special flood hazard area (SFHA).

Letter of map revision based on fill (LOMR-F) means FEMA's modification of the special flood hazard area (SFHA) shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee means a man-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 CFR § 65.10.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes, which includes working, storage, sleeping, cooking and eating or recreation, or any combination thereof. This includes any floor that could be converted to such a use, such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one (1) or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means, 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.

Material safety data sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered 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) means FEMA's action whereby one (1) or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations and/or planimetric features.

Recreational vehicle means a vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Special flood hazard area means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction means the date the building permit was issued, including substantial improvements, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure just prior to when the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (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:

- a. 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
- b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Threshold planning quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

Variance means a grant of relief to a person from the requirement of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. 2013-6 §1)

Sec. 18-3-60. Lands to which this Article applies.

This Article 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. 2013-6 §1)

Sec. 18-3-70. Basis for establishing areas of special flood hazard.

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Park County, Colorado and Incorporated Areas," dated December 18, 2009, 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 Article. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated and approved by the Board of Trustees. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

(Ord. 2013-6 §1)

Sec. 18-3-80. Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this Article.

(Ord. 2013-6 §1)

Sec. 18-3-90. 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 Article 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 Colorado Water Conservation Board and the National Flood Insurance Program.

(Ord. 2013-6 §1)

Sec. 18-3-100. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2013-6 §1)

Sec. 18-3-110. Interpretation.

In the interpretation and application of this Article, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2013-6 §1)

Sec. 18-3-120. Warning and disclaimer of liability.

The degree of flood protection required by this Article 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 man-made or natural causes. This Article 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 Article 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 Article or any administrative decision lawfully made thereunder.

(Ord. 2013-6 §1)

Sec. 18-3-130. Designation of Floodplain Administrator.

The Town Administrator or Authorized Designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

(Ord. 2013-6 §1)

Sec. 18-3-140. Duties and responsibilities of Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this Article.
- (2) Review permit applications to determine whether the proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this Article.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (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.
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Colorado Water Conservation Board, prior to any alteration or

relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

- (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Paragraph 18-11-150(a)(3) below, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other course in order to administer the provisions of this Article.

(Ord. 2013-6 §1)

Sec. 18-3-150. Permit procedures.

- (a) Application for a 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 areas of special flood hazard.

Additionally, the following information is required:

- (1) Elevation, in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures;
 - (2) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed;
 - (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Paragraph 18-11-180(2) of this Article.
 - (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 Paragraph 18-11-140(2) above.
- (b) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this Article and the following relevant factors:
 - (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - (8) The necessity to the facility of a waterfront location, where applicable;
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
 - (10) The relationship of the proposed use to the comprehensive plan for that area.

(Ord. 2013-6 §1)

Sec. 18-3-160. Variance procedures.

- (a) The Board of Adjustment (hereinafter referred to as the "Appeal Board") may consider and grant or deny variances to the requirements of this Article in accordance with the standards and procedures set forth in Article XXII of Chapter 16 of this Code. 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 Article.
 - (1) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
 - (2) 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.
 - (3) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the relevant factors in Section 18-11-150 above have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
 - (4) Upon consideration of the factors noted above and the intent of this Article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article as stated in Section 18-11-30 of this Article.
 - (5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (6) 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.
 - (7) Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 1. Showing a good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. 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.
 - c. 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.
 - (8) 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:

- a. The criteria outlined in Paragraphs (1)—(7) above are met; and
- b. 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. 2013-6 §1)

Sec. 18-3-170. General standards.

In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 2013-6 §1)

Sec. 18-3-180. Specific standards.

In all special flood hazard areas where base flood elevation data has been provided as set forth in this Article, the following provisions are required:

- (1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) 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.
- (2) Nonresidential construction. With the exception of critical facilities, outlined in Section 18-11-240 of this Article, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that, at one (1) foot above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of

water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered 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.

- (3) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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 (2) openings having a total net area of not less than one (1) 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 (1) foot above grade.
- c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- (4) Manufactured homes.

- a. All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on which manufactured home has incurred substantial damage as a result of a flood;

are 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) is elevated to one (1) foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- b. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above Subparagraph shall be elevated so that either:
 1. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are one (1) foot above the base flood elevation; or
 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (5) Recreational vehicles.

- a. All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM either:
 1. Be on the site for fewer than one hundred eighty (180) consecutive days;

2. Be fully licensed and ready for highway use; or
 3. Meet the permit requirements of Section 18-11-150 of this Article and the elevation and anchoring requirements for manufactured homes in Paragraph (4) above.
- b. 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.

(Ord. 2013-6 §1)

Sec. 18-3-190. Standards for areas of shallow flooding (AO/AH Zones).

Located within the special flood hazard area are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) 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; 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 (1) foot above the depth number specified in feet on the community's FIRM (at least three [3] feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
- (2) Nonresidential construction.
 - a. With the exception of critical facilities, all new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least three [3] 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 (1) 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 and effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 18-11-150 of this Article are satisfied.
 - b. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

(Ord. 2013-6 §1)

Sec. 18-3-200. Floodways.

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Section 18-11-50 of this Article). Located within special flood hazard area established in Section 18-11-70 of this Article, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity

of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway, unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Paragraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 18-11-180 of this Article.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

(Ord. 2013-6 §1)

Sec. 18-3-210. Alteration of watercourse.

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration and properly mitigate potential problems through the project, as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, state and local floodplain rules, regulations and ordinances.
- (4) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable federal, state and Town floodplain requirements and regulations.
- (6) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions in the floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with Section 18-11-200 above.
- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

(Ord. 2013-6 §1)

Sec. 18-3-220. Properties removed from floodplain by fill.

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F), unless such new structure or addition complies with the following:

- (1) Residential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), must be elevated to one (1) foot above the base flood elevation that existed prior to the placement of fill.
- (2) Nonresidential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) 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 (1) 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 and effects of buoyancy.

(Ord. 2013-6 §1)

Sec. 18-3-230. 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 the floodplain development permit requirements of this Article.
- (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 fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to Section 18-11-70 of this Article or Section 18-11-140 of this Article.
- (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. 2013-6 §1)

Sec. 18-3-240. Standards for critical facilities.

A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

- (1) Classification of critical facilities. Critical facilities are classified under the following categories: (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services. It is the responsibility of the Board of Trustees

to identify and confirm that specific structures in its community meet the following criteria:

- 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 nonambulatory 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), nonpotable 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 Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the 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) Aboveground 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 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 five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public 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 of this Article, 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.
 - c) Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Article.
- c. At-risk population facilities include medical care, congregate care and schools. These facilities consist of:
 - 1. Elder care (nursing homes).
 - 2. Congregate care serving twelve (12) or more individuals (day care and assisted living).
 - 3. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving twelve (12) or more children.
- d. Facilities vital to restoring normal services, including government operations. These facilities consist of:
 - 1. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers).

2. Essential structures for public colleges and universities (dormitories, offices and classrooms only).

These facilities may be exempted if it is demonstrated to the 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 Article, 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.

- (2) Protection for critical facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this Article, protection shall include one (1) of the following:
 - a. Location outside the special flood hazard area; or
 - b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two (2) feet above the base flood elevation.
- (3) 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. 2013-6 §1)

ARTICLE IV Growing and Processing of Marijuana in Residential Structures¹

Sec. 18-4-10. Purpose.

This Article is intended to apply to the growing of marijuana in residential structures whether such growing is done by persons for their own use, or by primary caregivers.

(Ord. No. 2014-10, § 1, 8-18-2014)

Sec. 18-4-20. Growing of marijuana in residential structures.

A person may use, cultivate, possess, produce, use or transport marijuana or paraphernalia to administer marijuana in a residential structure subject to the following:

- (1) Such cultivation, production, or possession of marijuana plants must be in full compliance with all applicable provisions of Article XVIII, section 14 and/or 16 of the Colorado Constitution, the Colorado Medical Marijuana Code, C.R.S. §§ 12-43.3-101 et seq., the Medical Marijuana Program, C.R.S. § 25-1.5-106; and the Colorado Retail Marijuana Code, as applicable.
- (2) Such marijuana plants are cultivated, produced, or possessed within a person's primary residence, as defined by subsection (8) below.
- (3) The cultivation, production, or possession of such marijuana plants must not be perceptible from the exterior of the primary residence, including but not limited to:

¹Editor's note(s)—Ord. No. 2014-10, § 1, adopted Aug. 18, 2014, repealed the former Art. XII, §§ 18-12-10, 18-12-20, and enacted a new Art. XII as set out herein. The former Art. XII pertained to similar subject matter and derived from Ord. 1, 2012, § 1.

- a. Common visual observation, including any form of signage;
 - b. Unusual odors, smells, fragrances, or other olfactory stimulus;
 - c. Light pollution, glare, or brightness that disturbs the repose of another; and
 - d. Undue vehicular or foot traffic, including excess parking within the residential zone.
- (4) Such marijuana plants shall not be grown or processed in the common areas of a multi-family or attached residential development.
 - (5) Such cultivation, production, or possession of marijuana plants shall be limited to the following space limitations within a primary residence:
 - a. Within a single-family dwelling unit (Group R-3 as defined by the International Residential Code): A secure, defined, contiguous one hundred fifty (150) square foot area within the primary residence of the person.
 - b. Within a multi-family dwelling unit (Group R-2 as defined by the International Residential Code): A secure, defined, contiguous one hundred (100) square foot area within the primary residence of the person.
 - c. Such cultivation, production, or possession of marijuana plants not occur in any accessory structure.
 - (6) Such cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted Town of Fairplay building and life/safety codes.
 - (7) Such cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted water and sewer regulations promulgated by the applicable water and sewer providers within the Town.
 - (8) For purposes of this Article, "primary residence" means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one (1) primary residence. A primary residence shall not include accessory buildings.
 - (9) For purposes of this Article, "a secure" area means an area within the primary residence accessible only to the owners or occupants. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals, or anyone not licensed or authorized to possess marijuana.
 - (10) The cultivation, production, or possession of marijuana plants in a residential structure pursuant to this Article is and shall be deemed consent by the owner or occupant,

upon reasonable notice, for the Town to inspect the premises to assure compliance with the provisions of this Article.

(Ord. No. 2014-10, § 1, 8-18-2014)

Sec. 18-4-30. Compressed flammable gas prohibited in residential THC extraction.

It is unlawful for a person to use any compressed flammable gas as a solvent in the extraction of tetrahydrocannabinol (THC) or any other cannabinoids in any residential structure in the Town.

(Ord. No. 2014-10, § 1, 8-18-2014)

ARTICLE V Building Moves and Sets

Sec. 18-5-10. Purpose.

The purpose of move and set permits is to ensure compliance with all Town, state and public utility requirements related to the movement of buildings upon public and quasi-public rights-of-ways and easements, and to ensure the structural stability of any structure to be moved. (Ord. 6, 2021 §1)

Sec. 18-5-20. Permits required.

No building, structure or improvement shall be moved from or set upon land located in the Town or transported upon any public street in the Town until a permit to move and set has been obtained therefor and said building, structure or improvement complies with the provisions of this Article.

(Ord. 6, 2021 §1)

Sec. 18-5-30. Procedures.

- (a) All buildings, structures and improvements to be moved and set shall comply with the Building Code, as adopted by the Town.
- (b) An application shall be submitted for said permit, along with a footing and foundation plan and construction plans for any new construction, which plans shall comply with the Building Code.
- (c) The applicant shall submit a statement from the County Treasurer showing that all past and current taxes have been paid before any permit shall be issued.
- (d) Upon receipt of the above items, the Building Official shall inspect said building, structure or improvements and the proposed location where the same will be set within the Town. Upon determining that the proposed development complies with the Building Code and this Chapter, the Building Official shall issue a permit to move and set.
- (e) The Building Official shall charge a reasonable fee, in addition to the normal fees set forth in the Building Code, to cover costs of investigation and inspection for determining the structural soundness of buildings, structures or improvements to be moved, which fee is payable in advance and must accompany the application provided for herein. The inspection shall determine what will be necessary to bring buildings, structures or improvements into compliance with the Building Code should the building not comply. This fee is not returnable. If buildings, structures or improvements are found to be capable or complying with the Building Code, a building permit will be issued at the regular fee as determined by the valuation of said building, structure or improvements as published in the Building Code.
- (f) No permit to move and set shall be issued until the applicant has first obtained any necessary permits from the public utility company, railroad companies, Colorado Department of Transportation and County Road Supervisor, unless it can be shown by the applicant that these agencies are not involved in the move.
- (g) No person shall transport, move or set any building, structure or improvement in the Town until and unless such person shall post with the Building Official a good and sufficient indemnity bond in favor of the Town. Such bond shall be made by a surety corporation authorized to do business in this State; said bond may be issued on an annual basis but shall not be in excess of such period of time.
- (h) A certificate of liability insurance in an amount determined by the Building Official shall be given to and kept on file by the Building Official. Appeals may be made to the Board of Trustees for the amount of insurance required only.

(Ord. 6, 2021 §1)

ARTICLE VI Drainage Requirements

Sec. 18-6-10. Drainage devices required.

The owners of all new construction in the Town shall be required to install such appropriate drainage devices under any driveway or other barrier which would interfere with the natural and existing drainage of the Town. It shall be the duty of the Building Official to enforce and implement this Article.

(Ord. 5, 1980 §1; Ord. 5, 2019, §2)

Sec. 18-6-20. Town to establish requirements.

It shall be the duty of the Building Official to determine the proper requirements for each site in regard to the nature and design for each drainage device required hereunder.

(Ord. 5, 1980 §2; Ord. 5, 2019, §2)

Sec. 18-6-30. Drainage device form.

To enable the Building Official to enforce and implement this Article, the Building Official:

- (1) Shall cause a form to be issued with the building permit setting forth the requirements for the drainage device to be installed; and
- (2) Shall condition issuance of the certificate of occupancy upon compliance with the requirements set forth by the Building Official in the form issued under Subsection (1) above.

(Ord. 5, 1980 §3; Ord. 11, 2002 §1; Ord. 5, 2019, §2)

Section 4. **Safety Clause.** The Town Board hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Fairplay, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Board further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 5. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 6. This Ordinance shall become effective January 1, 2023.

**INTRODUCED, READ AND PASSED, ADOPTED AND ORDERED PUBLISHED
IN FULL** in a newspaper of general circulation in the Town of Fairplay by the Board of Trustees
this _____ day of _____, 2022.

TOWN OF FAIRPLAY, COLORADO

Frank Just, Mayor

ATTEST:

Janell Sciacca, Town Clerk



Town of Fairplay

400 Front Street • P.O. Box 267
 Fairplay, Colorado 80440
 (719) 836-2622 phone
 (719) 836-3279 fax
www.fairplayco.us

STAFF REPORT

TO: Mayor and Board of Trustees

FROM: Janell Sciacca, Town Administrator

RE: New Business Item C – Resolution No. 36, Series 2022 Hardesty Professional Services Agreement for Asset Inventory/Management Plan and Water Tap Analysis/Report

DATE: October 3, 2022

BACKGROUND/ANALYSIS:

The Town is under agreement with Ken Hardesty of Hardesty Engineering & Mapping, LLC for engineering services for Phase II of the Beaver Creek Water Treatment Plant Rehabilitation Project. As part of that agreement, Ken's consulting team is helping Fairplay to apply for and secure grants and loans and progress overall design to 60% completion.

The Town, along with Ken and his team, have met with CDPHE Grants & Loans Unit Project Manager Jeff Zajdel on several occasions. Following our initial meeting, we prepared and submitted the required State Revolving Loan Fund Eligibility Survey and Pre-Qualification forms. Another meeting was held with CDPHE Staff and representative from DOLA and Colorado Water Resource and Power Development Authority to review both submittals. During that meeting the Town was notified it should be prepared to increase rates and fees to meet loan coverage ratios but also that several required financial and operational documents were not in place and would have to be drafted. One of the main documents is an Asset Inventory and Management Plan. Ken has already provided a preliminary memorandum for raising rates via his hourly on-call engineering agreement which will be considered in January as part of the overall updating of the Town's Fee Schedule. Tap fees are not as easily determined and are typically based on costs of maintenance, rehabilitation and replacement of overall infrastructure which is partially based on an Asset Plan. These items were not part of the Phase II agreement and therefore Ken has submitted the attached proposal for completing both, which as previously reported, are required by CDPHE for grant/loan funding.

While this is an unanticipated cost, the Town's overall financial position remains healthy and the costs will be offset in the long run by the potential gain of SRF funding. It is important to note that the Town was notified by CDPHE that it is eligible for BIL loan forgiveness and if funded could receive a portion of its loan as principal forgiveness.

STAFF RECOMMENDATION:

Staff recommends the Board approve Resolution No. 36, Series 2022 as presented by motion, second and a roll call vote.

Attachments:

- Resolution No. 36, Series 2022
- Proposal

TOWN OF FAIRPLAY, COLORADO

RESOLUTION NO. 36
(Series of 2022)**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH HARDESTY ENGINEERING & MAPPING, LLC FOR AN ASSET MANAGEMENT PLAN AND TAP FEE STUDY & REPORT.**

WHEREAS, the Town of Fairplay requires professional consulting services to complete a Water & Wastewater Asset Management Plan and Tap Fee Study which will aid the Town in obtaining a State Revolving Loan Fund loan/grant for rehabilitation and improvements for an Infiltration Gallery and Well #4 at the Town's Beaver Creek Water Treatment Plant; and

WHEREAS, Hardesty Engineering & Mapping, LLC represents itself as having the required expertise and experience to perform the required professional services and presented an appropriate proposal; and

WHEREAS, the Town will pay the Consultant to the amount of \$21,000.00.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, THAT:

Section 1. The Board of Trustees hereby approves the Professional Services Agreement attached hereto as "Exhibit A" and authorizes the Mayor and/or Town Administrator to execute same on behalf of the Town.

Section 2. The total amount of payment for services under the agreement shall not exceed \$21,000.00.

Section 3. This resolution shall become effective upon adoption.

RESOLVED, APPROVED, and ADOPTED this 3rd day of October, 2022.

TOWN OF FAIRPLAY, COLORADO

ATTEST:

Frank Just, Mayor

Janell Sciacca, Town Clerk

EXHIBIT A

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this 3rd day of October, 2022, by and between the Town of Fairplay, a Colorado statutory municipality (the "Town") and Hardesty Engineering & Mapping, LLC, an independent contractor ("Consultant").

WHEREAS, the Town requires professional services; and

WHEREAS, Consultant has held itself out to the Town as having the requisite expertise and experience to perform the required services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. SCOPE OF SERVICES

A. Consultant shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall constitute a material change or amendment of services or work which is different from or additional to the Scope of Services. No such change, including any additional compensation, shall be effective or paid unless authorized by written amendment executed by the Town. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit or implied contract.

II. REPORTS, DATA AND WORK PRODUCT

A. The Town shall provide Consultant with reports and such other data as may be available to the Town and reasonably required by Consultant to perform the Scope of Services. All documents provided by the Town to Consultant shall be returned to the Town. The Consultant is authorized by the Town to retain copies of such data and materials at the Consultant's expense.

B. Other than sharing information with designated third parties as previously directed by the Town, no project information shall be disclosed by Consultant to third parties without prior written consent of the Town or pursuant to a lawful court order directing such disclosure.

C. The Town acknowledges that the Consultant's work product is an instrument of professional service. Nevertheless, all work product prepared under this Agreement shall become the property of the Town upon completion of the work. Consultant shall retain its rights in its standard drawing details, designs, specifications, databases, computer software and any other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Scope Services shall remain the property of Consultant.

D. Upon request, Consultant shall provide to the Town electronic versions of all work product, in the format directed by the Town.

III. COMPENSATION

A. In consideration for the completion of the Scope of Services by Consultant, the Town shall pay Consultant an amount not to exceed the budgeted amount per request/project. The method and manner of payment shall be as specified in **Exhibit A**, attached hereto and incorporated herein by this reference. The maximum amount specified herein shall include all fees and expenses incurred by the Consultant in performing all services hereunder.

B. Notwithstanding the maximum amount specified in subsection A hereof, Consultant shall only be paid for work performed. If Consultant completes the Scope of Services for a lesser amount than the maximum amount, Consultant shall be paid the lesser amount, not the maximum amount.

IV. COMMENCEMENT AND COMPLETION OF WORK

Within seven (7) days of receipt of a Notice to Proceed, Consultant shall commence work as set forth in the Scope of Services or that portion of such work as is specified in said Notice. Except as may be changed in writing by the Town, the Scope of Services shall be complete and Consultant shall furnish the Town the specified deliverables as provided in Exhibit A.

V. PROFESSIONAL RESPONSIBILITY

A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

B. The work performed by the Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community. The work and services to be performed by the Consultant hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or resolve any errors or deficiencies in his designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the Town for construction costs caused by errors and omissions which fall below the standard of professional practice.

D. Approval by the Town of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Consultant of responsibility for the technical adequacy of the work. Neither the Town's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

E. Because the Town has hired Consultant for its professional expertise, Consultant agrees not to employ subcontractors to perform more than _____ percent (___%) of the

required under the Scope of Services. Upon execution of this Agreement, Consultant shall furnish to the Town a list of proposed subcontractors, and Consultant shall not employ a subcontractor to whose employment the Town reasonably objects. All contracts between Consultant and subcontractors shall conform to this Agreement.

VI. INSURANCE

A. Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Consultant pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law.

B. Consultant shall procure and maintain, and shall cause any subcontractor of Consultant to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of five hundred thousand dollars (\$500,000) each accident, two million dollars (\$2,000,000) disease – policy limit, and two million dollars (\$2,000,000) disease – each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph.

2. Commercial general liability insurance with minimum combined single limits of six hundred thousand (\$600,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall be endorsed to include the Town and the Town's officers, employees, and consultants as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

3. Professional liability insurance with minimum limits of six hundred thousand dollars (\$600,000) each claim and two million dollars (\$2,000,000) general aggregate.

C. Any insurance carried by the Town, its officers, its employees, or its consultants shall be excess and not contributory insurance to that provided by Consultant. Consultant shall be solely responsible for any deductible losses under any policy.

D. Consultant shall provide to the Town a certificate of insurance, completed by Consultant's insurance agent, as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The certificate shall identify this

Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Town. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

E. Failure on the part of Consultant to procure or maintain the insurance required herein shall constitute a material breach of this Agreement upon which the Town may immediately terminate this Agreement, or at its discretion, the Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town.

VII. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney's fees, 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 this Agreement or the Scope of Services if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Consultant, any subcontractor of Consultant, or any officer, employee, representative, or agent of Consultant or of any subcontractor of Consultant, or which arise out of any workmen's compensation claim of any employee of Consultant or of any employee of any subcontractor of Consultant.

VIII. TERMINATION

This Agreement shall terminate at such time as the work described in the Scope of Services is completed and the requirements of this Agreement are satisfied, or upon the Town's providing Consultant with seven (7) days advance written notice, whichever occurs first. If the Agreement is terminated by the Town's issuance of written notice of intent to terminate, the Town shall pay Consultant for all work previously authorized and completed prior to the date of termination. If, however, Consultant has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Scope of Services, any use of documents by the Town thereafter shall be at the Town's sole risk, unless otherwise consented to by Consultant.

IX. CONFLICT OF INTEREST

Consultant shall disclose any personal or private interest related to property or business within the Town. Upon disclosure of any such interest, the Town shall determine if the interest constitutes a conflict of interest. If the Town determines that a conflict of interest exists, the Town may treat such conflict of interest as a default and terminate this Agreement.

X. INDEPENDENT CONTRACTOR

The Consultant is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Consultant to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it is a Town employee for any purposes.

XI. WORKERS WITHOUT AUTHORIZATION

A. Certification. Consultant hereby certifies that, at the time of this certification, it does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that the Consultant will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.

B. Prohibited Acts. Consultant shall not:

(1) Knowingly employ or contract with a worker without authorization to perform work under this Agreement; or

(2) Enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

C. Verification.

(1) If Consultant has employees, Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

(2) Consultant shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(3) If Consultant obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization who is performing work under the Agreement, Consultant shall:

a. Notify the subcontractor and the Town within three (3) days that Consultant has actual knowledge that the subcontractor is employing or contracting with a worker without authorization who is performing work under the Agreement; and

b. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (a) hereof, the

subcontractor does not stop employing or contracting with the worker without authorization who is performing work under the Agreement; except that Consultant shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization who is performing work under the Agreement.

D. Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Consultant is complying with this Agreement.

E. If Consultant does not have employees, Consultant shall sign the “No Employee Affidavit” attached hereto.

F. If Consultant wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Consultant shall sign the “Department Program Affidavit” attached hereto.

XII. MISCELLANEOUS

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

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

C. Integration. This Agreement and any attached exhibits constitute the entire Agreement between Consultant and the Town, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first-class United States Mail, addressed as follows:

The Town: Janell Sciacca, Town Administrator
Town of Fairplay, Colorado
PO Box 267, 901 Main Street
Fairplay, CO 80440

Consultant: Ken Hardesty, Owner
Hardesty Engineering & Mapping, LLC
2062 Dolomite Way
Castle Rock, CO 80108

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

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

H. Assignment. Neither this Agreement nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

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

J. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. Non-appropriation. As required by Article X, Section 20 of the Colorado Constitution, any obligation of the Town not to be performed during the current fiscal year is specifically made subject to appropriation of funds for such performance. Should the Town's governing body not appropriate funds for the performance of this contract in any future fiscal year this Agreement shall automatically terminate without further action by the parties.

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

TOWN OF FAIRPLAY, COLORADO

Frank Just, Mayor

ATTEST:

Janell Sciacca, Town Clerk

EXHIBIT A

September 8, 2022

Mrs. Janell Sciacca
Town Administrator
Town of Fairplay, Colorado
PO Box 267
901 Main Street
Fairplay, CO 80440

Re: Proposal for Developing an Asset Management Plan and Subsequent Tap Fee Memorandum, Town of Fairplay, 2022.

Dear Mrs. Sciacca:

The Town of Fairplay is working towards maintaining your water and wastewater systems to meet ongoing regulations, provide a high standard of care to your constituents, and preparing to meet the future needs of new development. Through our meetings with you, we have become aware of some of the issues and objectives facing the Town. To respond to your requests and to assist you with your goals, we have prepared this proposal to provide an inventory of existing facilities, develop a list of project objectives for improving and expanding your capabilities, and a review of the financial impacts related to new development that will contribute to these objectives as you move to meet the impacts of new growth.

I am pleased to provide this proposal, identified as Task Order 1, for developing an Asset Management Plan for the Town of Fairplay water and wastewater infrastructure and for a water tap fee memorandum to determine an appropriate water tap fee for the Town. This task order would be implemented under the on-call services agreement between Hardesty Engineering & Mapping, LLC, and the Town of Fairplay.

The scope of services for the Asset Management Plan and tap fee memorandum are summarized below:

Asset Management Plan Scope of Work

- Collect existing data from the Town and review data
- Develop a comprehensive inventory of the Town's water and wastewater assets. This will include obtaining information on the Town's assets, including age, type, and location of infrastructure.
- Attend a workshop with the Town to review the list of water and wastewater

- assets and prioritize rehabilitation and replacement needs.
- Develop cost estimates for rehabilitation and replacement and summarize in an annual budget. Determine annual reserve budgets to achieve the annual rehab/replacement projects.
- Develop a report summarizing the Town's assets, rehabilitation and replacement needs, and annual budgets.
- Submit draft reports for Town review.
- Address comments and prepare and distribute a final Asset Management Plan report.

Water Tap Fee Memorandum Scope of Work

- Collect revenue data from the Town and review data
- Develop a cost spreadsheet to determine annual costs.
- Using estimates of the number of future developments, develop a model that analyzes various tap fees, along with usage rates, to compare with current and estimated future costs and revenue.
- Provide a draft memorandum summarizing the results of the analysis above, including methodology, a recommended new tap fee and a schedule for any future increases.
- Submit draft memorandum for Town review.
- Address comments and prepare and distribute a final Tap Fee memorandum.

Both scopes of work outlined above would follow the EPA guidelines for asset management plans and system rates for small drinking water systems.

The cost to complete the scope of work for developing an Asset Management Plan and Tap Fee Report is \$21,000. Work performed under this Task Order 1 will be bound by the terms and conditions of the on-call services agreement with the Town of Fairplay. We are available to begin work immediately, and we are estimating to have the work completed by late October to early November, 2022.

Please contact me if you have any questions regarding this proposed task order at (303) 570-9124 or hardestyeng@gmail.com

Sincerely,

HARDESTY ENGINEERING & MAPPING, LLC.



Ken Hardesty
Owner



STAFF MEMORANDUM

TO: Mayor and Board of Trustees

FROM: Janell Sciacca, Town Administrator/Clerk

RE: Unfinished/Other Business Item C. – Trustee Vacancy

DATE: October 3, 2022

Background/Analysis:

Isaiah Goodreau resigned from the Board of Trustees on September 26, 2022 after accepting a position offered by his employer in Pueblo, CO.

Section 2-2-10 (d) of the Fairplay Municipal Code sets forth:

Vacancies. In case of the death, resignation, vacation or removal for cause of any of the Trustees during their term of office, the Board of Trustees, within sixty (60) days of the creation of said vacancy, by a majority vote of all remaining members thereof, shall select and appoint, from among the duly qualified electors of the Town, a suitable person to fill the vacancy or, alternatively, call a special election to fill said vacancy. Any person appointed or elected to fill a vacancy shall hold office until the next regular election and until his or her successor is elected and qualified. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where vacancies exist in the offices of Trustee and successors are to be elected at the next election to fill the unexpired terms, the two (2) candidates for Trustee receiving the highest number of votes shall be elected to four-year terms, and the candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired terms.

The 60-day deadline would be November 18, 2022, which is 3 days prior to the regular meeting scheduled for Monday, November 21, 2022.

Recommended Board Action:

Staff recommends that the Board discuss the vacancy and provide direction to the Town Administrator on filling the vacancy in accordance with the requirements set forth in the Municipal Code.



MEMORANDUM

TO: Mayor and Board of Trustees

FROM: Janell Sciacca, Town Administrator / Clerk

RE: Monthly Report

DATE: September, 2022 Monthly Report

ACTIVITIES, ACCOMPLISHMENTS & PROJECTS

PERSONNEL

- Working through Budget process with Board relative to salaries and benefits and also new positions and possible Staff moves for 2023.
- Beginning preparations for year end 2022 volunteer appreciation and employee appreciation celebration.

ADMINISTRATION / CLERK

- I have become the local agency for the current Transit Study and am coordinating with the project team and Fehr and Peers Staff to complete a Community Needs Survey. The survey is in process and responses can be completed online or paper and the deadline was extended to Monday, October 24.
- CDOT has reached out again regarding the potential Workforce Housing project proposed for the Hathaway site. Our location and several others through out the state were presented to the Transportation Commission and funding has been secured to hire a firm to develop concepts. The CDOT team will be on-site Tuesday, October 11 at 1PM to provide and update and further discuss the project and all its moving parts.
- Next week, October 12-14, I will be attending the Annual Housing Colorado Conference in Breckenridge.
- On September 26 I participated in a ZOOM meeting with representatives of Cripple Creek and PPACG to begin discussions regarding a Tri-County Economic Development District for El Paso, Teller and Park Counties. Tom Eisenman and I will be participating in another meeting in October to further discuss the viability of the concept.
- There has been little movement on an agreement with Northwest Fire Protection relative to an agreement with CAA for Fire Inspection Services. Mike Theissen of CAA has reached out to their Attorney and I have reached out to the Chief and Fire Marshal in hopes of getting this in place by January 1.
- Phoenix Technology Group will be migrating the Town to Office 365 and a new email system in October. They will work with Staff and the Board to ensure everyone has access to their Town email accounts remotely via cellular phones, tablets or other electronic devices.
- As of September 24, the Town still has only 14 of the 20 total Short Term Rental permits issued. There are 3 applications in process and Staff will begin preparing to issue renewal notices in November.
- CIRSA General Counsel Sam Light presented his Elected Officials Training for Land Use Liability and the Basics of Quasi-Judicial Decision-Making Training for the Board of Trustees on September 12.
- Staff has obtained quotes to move the Town to a VoIP (Voice Over Internet Protocol) system. There will be some minimal up front costs, but the Town will save money overall by eliminating Centurylink and ZOOM expenses. The move will provide for a more complete and robust system with phone, chat, text, and meeting capabilities.

- The MMOF Local Agency Grant Agreement for Phase II of the River Park has been received and is being reviewed by the Town Attorney. It will be presented to the Board on October 17 for approval by resolution.
- Staff is in process of obtaining quotes for Town wide leak detection services and will move forward to have this completed yet this fall. We will also budget to complete this every Spring and Fall from this point forward.
- The Mayor and Staff hosted the Edith Teter 1st Grade Class at Town Hall on Thursday, September 22.
- Staff and the Town Engineers (Hahn, Hardesty & Dirksen) met with the Town's Water Attorney Matt Panonovic on Wednesday, October 21, to discuss the current infiltration gallery and well #4 project, water rights, and potential future water infrastructure projects and many other water related matters.
- The Mayor and Mayor Pro Tem and Public Works Director Graham and myself met on September 26 with the new DOLA Regional Manager Kate McIntire and Dana Hlavac, the Northwest Regional Manager, to discuss the Town's infiltration gallery and well #4 project and EIAF grant application. McIntire is scheduled to attend our first meeting in November to introduce herself to the entire Board.
- I worked with the Chief to update the Police Department's cellular phones that were becoming obsolete.

DEVELOPMENT / LAND USE

- Staff held its monthly Development Review Meeting on September 12. The next one is set for October 10. We are continuing to work with developers for the Bluffs and Mustang Ridge in hopes of bringing one or both to the Board before year's end. There are several site plans and exemptions plans in process and the UDC updating is underway with Scot, Nina and myself having met and discussed how best to tackle the PUD section which is the Board's and Staff's priority.

CAPITAL IMPROVEMENT PROJECT UPDATES

1. 501 MAIN
 - On hold for re-bidding after January 1, 2023.
2. COHEN PARK
 - Cohen Park playground construction is complete. Ace Coring and Cutting is beginning excavation for the Basketball Court and has put the project on a wait list for scheduling for the concrete delivery.
3. RIVER PARK PHASE 2
 - \$750,000 CDOT MMOF grant with a local match of \$250,000 received.
 - Local Agency IGA complete and being reviewed by legal counsel, with expected presentation to the Board October 17.
4. INFILTRATION GALLERY & WELL #4
 - Project Needs Assessment Step Complete
 - \$200,000 Match Grant application submitted to DOLA EIAF program - Grant review committee meets early October.
 - There are five (5) additional steps the Town has to take, and additional documents that must be submitted, before the actual Loan application step.
 - Asset Management Plan and Tap Fee Study proposal from Hardesty Engineering & Mapping, LLC before Board 10/3 for consideration.



MEMORANDUM

TO: Town of Fairplay Board of Trustees

FROM: Donovan Graham, Director of Public Works

RE: Staff Report

DATE: October 3, 2022

12th street RAP project was completed, there was not enough material to overlay the road at proper thickness, but the road is much better than when we started.

Staff is continuing to get ready for snow plowing, the F350 is being fit with a plow on October 12th which makes the snow fleet complete.

We are continuing the testing of well 4 as well as the infiltration gallery.

I haven't gotten word when they'll start, but Century Link is about to start Fiber operations in and around the Town

The crack seal machine should arrive next week and after Dissco trains staff we will begin crack seal operations.

I will have an update on the water leak situation on 5th street at the meeting.

Staff has marked the area for the basketball court as well as the ADA sidewalk going to the exercise stations. Ace should have already started excavation or will start soon.

Staff is working on correcting violations noted in the recent Sanitary Survey and will be sending out required notices to our community as well as filing the required response by the October 23 deadline.

WATER PRODUCTION BY INDIVIDUAL WELLS

	<u>WELL 1</u>	<u>WELL 2</u>	<u>WELL 3</u>
Aug-22	1,270,994 Gallons	1,147,087 Gallons	2,004,689 Gallons
Jul-22	1,338,854 Gallons	953,189 Gallons	1,792,938 Gallons
Jun-22	1,181,982 Gallons	784,967 Gallons	1,505,235 Gallons
May-22	937,356 Gallons	607,968 Gallons	1,160,391 Gallons
Apr-22	901,205 Gallons	579,729 Gallons	1,092,477 Gallons
Mar-22	911,916 Gallons	586,701 Gallons	1,090,625 Gallons
Feb-22	828,909 Gallons	531,882 Gallons	972,218 Gallons
Jan-21	901,541 Gallons	583,894 Gallons	1,052,144 Gallons
Dec-21	914,759 Gallons	576,695 Gallons	1,060,845 Gallons
Nov-21	876,563 Gallons	583,714 Gallons	1,048,972 Gallons
Oct-21	1,085,427 Gallons	779,760 Gallons	1,432,878 Gallons
Sep-21	1,304,614 Gallons	956,774 Gallons	1,863,722 Gallons
Aug-21	1,100,385 Gallons	1,300,920 Gallons	1,995,430 Gallons
Jul-21	1,069,883 Gallons	1,396,690 Gallons	2,029,124 Gallons
Jun-21	1,204,249 Gallons	1,122,587 Gallons	1,612,302 Gallons
May-21	1,237,321 Gallons	707,596 Gallons	1,005,307 Gallons
Apr-21	1,119,949 Gallons	603,099 Gallons	844,727 Gallons
TOTAL	18,185,907 Gallons	13,803,252 Gallons	23,564,024 Gallons

SCRIPT FOR EXECUTIVE SESSION

BEFORE GOING INTO EXECUTIVE SESSION – with the regular meeting recorder on

1. Announce that the Town Board would like to go into an executive session and that the topic of discussion will be determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators and/or for the purpose of personnel matter, regarding Intergovernmental Agreement(s) with Park County.
2. Announce that the Section 24-6-402 (4) (e) and (f) C.R.S. authorizes an executive session for these matters.
3. Someone moves to go into executive session and someone seconds the motion.
4. Take a vote – an affirmative vote of 2/3 of the quorum present.
5. Announce who will be involved in the Executive Session – Mayor and Board of Trustees, Town Administrator and Town Attorney (by Zoom)

ONCE IN EXECUTIVE SESSION – with the exec session recorder on

1. Announce that it is (date) and the time is ____p.m. For the record, I am the presiding officer, Mayor Just. As required by the Open Meetings Law, this executive session is being electronically recorded. Also present at the executive session are: _____.
2. Announce that the Section 24-6-402 (4) (e) and (f) C.R.S. authorizes an executive session for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators and personnel matters pertaining to Intergovernmental Agreement(s) with Park County.
3. Announce that: “I caution each participant to confine all discussion to the stated purpose of the executive session, and that no formal action may occur in the executive session. If, at any point in the executive session, any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.”

AT THE END OF EXECUTIVE SESSION –before the exec session recorder is turned off

1. Announce that it is (date) and the time is ____ p.m., and the executive session has been concluded. The participants in the executive session were: myself, Mayor Just and _____.
2. Announce that the recording will be kept for a minimum of 90 days in accordance with state law.

ONCE YOU ARE BACK IN REGULAR SESSION – with the regular meeting recorder on

1. Announce that it is (date) and the time is ____ p.m., and the executive session has been concluded. The participants in the executive session were: myself, Mayor Just and _____.
2. Announce that; “For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record.”
3. “Seeing none, this meeting is hereby adjourned.” (or if other items to be discussed move on to that item.)