

Posted on October 13, 2020 at: _____

Discussion



**TOWN OF WIGGINS
AGENDA
WORK SESSION**

October 14, 2020 AT 7:00 P.M.

**304 CENTRAL AVENUE
WIGGINS, CO 80654**

**NOTE: MEETING WILL BE HELD VIA ZOOM
GO TO wigginsco.com FOR THE LINK**

<u>Agenda Item</u>	<u>Estimated Time</u>
1. Discussion on Nuisance Ordinance Rewrite (Continuation)	45 minutes
a. Nuisance Declared General	
b. Trash, Junk and Debris	
c. Sidewalks (Snow)	
d. Landscape Materials	
e. Weed and Vegetation	
f. Fireworks	
g. Emergency Alarm Systems	
h. Abandoned and Junk Vehicles	
2. Discussion on Building Permit Water and Sewer Fees	10 minutes
a. Proposed Snow Removal Ordinance	
3. Presentation of and Input on 2021 Draft Budget (Initial Presentation and Discussion-Budget Workshop TBD)	45 minute
4. Other Items/Updates	15 minutes
5. Future Agenda Topics	5 minutes

The Board of Trustees may adjourn for brief Special Meeting after the Work Session.



STAFF SUMMARY

Board of Trustees Work Session October 14, 2020

DATE: October 12, 2020

AGENDA ITEM NUMBER: 1

TOPIC: Nuisance Ordinance Rewrite

STAFF MEMBERS RESPONSIBLE : Hope Becker, Planning and Zoning Administrator
Doug Erickson, Wiggins Police Officer

BACKGROUND:

The Board of Trustees has expressed a desire for staff to do more abatements throughout town maintain the beautification of and cleanliness in town. The Board of Trustees discussed at the May 13, 2020 board meeting how some properties in Town are in unkept conditions and in violation of the current code. The Town's current ordinances are unorganized and do not provide staff or the police department the clarity necessary to perform the abatement processes. At the advice of the Town Attorney, staff proposed that the current ordinance be overhauled and brought up to date. Staff agreed this would be a better solution than attempting to update the many small individual sections of the current outdated and unorganized ordinance. The staff discussed potential changes that could be made to the ordinance itself as well as the abatement process in a recent meeting. The staff used other municipalities such as Yuma, Keenesburg, Kersey, Haxtun, and Greeley as examples.

Staff provided an update to the Trustees at the June 10, 2020 Work Session. Ordinances from Haxtun and Yuma were provided to the Trustees as examples staff desired to use as models for the re-write of the Wiggins Ordinance. The Board provided staff direction to continue forward on the project to update the Town's ordinance.

At the August 12, 2020 work session staff introduced the ordinance rewrite to the Board of Trustees. The Trustees requested additional time for their review. The Trustees also requested staff include a section on snow removal from sidewalks.

Staff presented the Health and Safety Ordinances to the Board of Trustees at the September 9th work session meeting. The Board of Trustees provided Town Manager Acre and staff necessary feedback to further fine tune the ordinances. Staff has taken those suggestions to do further research and thought to the ordinances.

SUMMARY:

Staff has been working to revise the town's current nuisance codes. Yuma's codes were used as a model to create an organized ordinance. As a result of researching snow removal ordinances, staff looked at ordinances from additional municipalities including Aurora, Commerce City, and Westminster. This resulted in the creation of a Health and Safety Chapter for the Town of Wiggins ordinances. The Health and Safety chapter includes, but is not limited to, Weed & Abatements, Abandoned and Junk Vehicles, Fireworks, Emergency Alarm Systems, and Nuisances (general). All are numbered and structured in a fashion that leaves room for Trustees to adopt additional codes in the future without disrupting the flow of the chapter.

Staff is proposing the following in addition to a rewritten ordinance. The goal is to educate residences and businesses of the ordinance and receive voluntary compliance.

- To designate a Zoning Compliance person to cruise the town streets and alleys once a week for nuisance issues. Possibilities being a joint effort with the Planning & Zoning Department and the Police Department.
- Staff would organize a system at the office to keep track of number of infractions for each address. This enables the tier fines to increase with each infraction.

Attached to this report is a semi final draft of the Health and Safety Ordinances. Staff recommends tabling two ordinances: Defaced Property and the Noise Ordinance. Staff was unable to locate additional resources to create better verbiage that was better suited for the Town of Wiggins. The Town of Wiggins is fortunate to not have a lot of defacing of property incidents; therefore, it became difficult to create something at this time that was suited for Wiggins. Defacing Property ordinance can be brought back when the town's graffiti ordinance is reviewed.

The Noise ordinance is also being tabled for the time being. This is due to noise measuring devices now being required to enforce such an ordinance. The Town of Wiggins does have a active noise ordinance that can be used to allow community members to request code enforcement on noise disturbances.

This draft incorporates information gathered from additional research of other municipalities, a deeper look into the town's existing ordinances, and the Board of Trustees' comments. Comments from this meeting will be added and the Health and Safety Ordinances will be sent to the town attorney for review.

FISCAL IMPACT:

There are costs associated with staff and attorney review and preparation of the Ordinance.

APPLICABILITY TO TOWN OBJECTIVES AND GOALS TO PROVIDE SERVICES:

Updating the current nuisance ordinance would provide better clarity and education to the residents of Wiggins regarding nuisances. The new Health & Safety Ordinances will be more organized providing a better reference manual for the police department, staff, and the community. Easy accessibility will allow for smoother abatement process. The overall goal being to achieve voluntary compliance and improve the appearance of the town.

QUESTIONS/INFORMATION REQUESTED FROM THE BOARD OF TRUSTEES:

- Does the Board of Trustees have any questions of staff?
- Are there sections the Trustees would add or delete?

Article 8

CHAPTER 1

NUISANCES & ABATEMENT PROCESS

SECTION:

8-1-1: Definitions

8-1-2: Declaration of Nuisances

8-1-3: Violation – Penalty

8-1-4: Abatement Process

8-1-5: Emergency Abatement

8-1-1 DEFINITIONS.

Person: A natural person, association, corporation, partnership, limited liability company and any other legal entity capable of owning, using, or occupying real property.

Public Place: Any street, highway, public right-of-way, sidewalk, driveway or alley, school building, school grounds, public building, library, fire station, public park or any parking lot.

Responsible Party: Any person who makes or causes any nuisance to exist, or who has possession or control of any real property or premises, whether as owner, occupant or tenant, where any nuisance is found, or, in the case of a motor vehicle, as owner or operator of the same.

8-1-2 DECLARATION OF NUISANCES.

A. Common Law and Statutory Nuisances. Any nuisance defined or declared as such by state statute or case law (common law) is hereby declared a nuisance for purposes of this chapter. It shall be unlawful for any person to create any common law or statutory nuisance in the town or to permit a common law or statutory nuisance to occur or continue to occur on any property under such person's control. Further, it is unlawful for any person to permit a common law or statutory nuisance to occur in conjunction with any personal property under such person's control.

B. Specified Nuisances. Any act, action, condition, situation, circumstance or state of being identified in this article as prohibited or unlawful is hereby declared a nuisance.

8-1-3 VIOLATION – PENALTY.

The following penalties, set out in this section, shall apply to this chapter:

- A. It is unlawful for any person to violate any of the provisions stated or adopted in this chapter.
- B. Every person who violates any provision stated or adopted in this chapter shall be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) for each offense. Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense. However, no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment, and no imprisonment shall be allowed under this chapter.

8-1-4 ABATEMENT PROCESS.

- A. Whenever the police chief, a police officer, or another authorized officer of the town (referenced, collectively hereafter, as authorized officers) determines that a nuisance exists on or in any lot, building or premises, under this chapter, the authorized officer may give notice in the manner prescribed in paragraph B & C..
- B. Such notice prescribed in paragraph A. shall:
 - 1. Be in writing.
 - 2. Include a description of the property sufficient for identification.
 - 3. Include a statement of the violation or violations and why the notice is issued.
 - 4. Include a correction order allowing at least 14 days to make the repairs and improvements required to abate the nuisance.
 - 5. Inform the property owner of the right to appeal pursuant to chapter 16.30 of this Code.
 - 6. Include a statement of the town's right to abate the nuisance and file a lien in accordance with this section.
- C. The authorized official shall promptly post a copy of the notice in a visible location on the property. Besides such posting, the authorized official shall, if practicable, provide a copy of the notice to the property owner by one or more of the following methods:
 - 1. By personal delivery to the owner, or the owner's designated agent;
 - 2. By U.S. mail or other commercial mail service to any address for the owner appearing in the County Tax Assessor's records, for real property;

3. By U.S. mail or other commercial mail service to any address for the owner appearing in the Colorado Department of Revenue or other official title or registration records, for other property;
 4. By any other means reasonably calculated to provide notice.
- D.** It shall be the duty of the owner, occupant or agent of any lot, building or premises, in or upon which any nuisance may be found, to abate the same in such manner as the officer serving such notice prescribes, within the time specified in the abatement notice and correction order. Timely filing of an appeal from the abatement notice and correction order under this section shall extend the time for abatement until a final ruling on that appeal. In addition to any other available sanction or relief, if such owner, occupant or agent neglects or refuses to comply with the requirements of such order within the time specified, he or she commits a violation of this Code, punishable according to chapter 1.12.
- E.** It shall be the duty of the authorized officer to proceed at once, upon the expiration of the time for abatement specified in such notice, and including any extension for appeal, as provided above, to cause abatement of such nuisance, and payment of the abatement expense by the person so refusing or neglecting.
- F.** The authorized officer shall certify, to the Town Clerk, as a proposed charge and lien against the subject property, the cost, plus a 20 percent administrative service charge, of any such action taken pursuant to such court action or pursuant to this chapter.
- G.** Notice of assessment; appeal of charges.
1. Upon receipt of the statement of charges, the Town Clerk shall mail to the owner of record of the subject property a notice, stating the amount and grounds for the charges; that the town proposes to assess the charges against the property; and that, any objections to the proposed assessment must be made in writing and filed with the Town of Wiggins 14 days from the date of receipt of such notice. Upon the expiration of the 14-day period, if the Town Clerk receives no objections, the Town Clerk shall, pursuant to C.R.S. section 31-20-105, certify such charges to the office of the treasurer of the county that includes the property, for collection in the same manner as taxes, as authorized by C.R.S. title 31.
 2. If the property owner files an appeal with the Town Clerk before the expiration of the 14-day period, the Town Clerk shall refer the matter to a hearing officer appointed by the Town Clerk for determination.
 3. Upon conclusion of administrative review, the hearing officer shall determine, in writing, whether the charges are proper. The town shall have the burden of proof, by a preponderance of the evidence. According to that

determination, the hearing officer shall affirm, cancel or reduce the charges. The hearing officer shall furnish a copy of this determination to the person making the objections together with a notice of such person's right to appeal to the district court, according to chapter 16.30 of the Wiggins Municipal Code.

4. The hearing officer, on appeal, may reduce or cancel a proposed assessment if it is determined that any of the following did not conform to the provisions of this Ordinance:
 - a. Any required notice to correct the subject violations; or
 - b. The work performed in abating the nuisance; or
 - c. The computation of charges.
5. Upon a final determination by the hearing officer affirming or reducing the charges, the hearing officer shall certify a copy of the determination to the Town Clerk, who shall certify such charges to the office of the treasurer of the county, as provided above.
6. The Town Clerk may delegate to employees of the Town of Wiggins any of the functions this section vests in the Town Clerk.

H. Assessments against property for abatement costs under this section shall not apply to the town's expenses where other parts of this Code expressly provide specific alternate processes for assessment or collection of those abatement costs.

I. In addition to the penal remedy and abatement procedure stated in this section, any violation of this chapter is a public nuisance, for which there is no adequate remedy at law, and therefore any court of competent jurisdiction shall, upon the town attorney's proven application, enjoin a nuisance, as defined in this chapter. Nothing in this chapter shall prevent the town attorney from seeking other appropriate legal or equitable relief from any court of competent jurisdiction. In addition, the owner of any property constituting a nuisance shall be liable to the town, jointly and severally with every person creating or maintaining the nuisance, for the town's reasonable expense of abating the nuisance and the town attorney may commence and prosecute to final judgment an action at law in any court of competent jurisdiction to collect those expenses. As used in this section, court of competent jurisdiction includes, without limitation, the Wiggins municipal court, which, insofar as practicable, shall consider and determine applications for legal or equitable relief according to the procedures otherwise applicable to proceedings in Colorado district courts

8-1-5 EMERGENCY ABATEMENT.

A. Whenever an authorized officer finds that a nuisance exists under this chapter,

and places the public health, or safety or welfare in immediate danger, the officer may issue an emergency correction order, which shall comply with section 9.04.150, except that the emergency correction order shall:

1. Allow a time less than 14 days, as is reasonable in the circumstances, to abate the nuisance;
 2. State that, if the nuisance remains unabated at the end of the reasonable time given, the authorized officer will cause abatement of the nuisance according to section 9.04.150 E.; and
 3. State that, due to the emergency need for abatement, a timely appeal, according to section 16.30.040, may be heard after abatement.
- B.** Timely filing of an appeal from the emergency correction order shall not extend the time for abatement.
- C.** If the nuisance remains unabated at the end of the reasonable time given, the authorized officer shall cause abatement of the nuisance according to section 9.04.150 E.
- D.** If the master board of appeals, upon a timely and proper appeal, finds the correction order justified, but the time given for correction unreasonably short, in the circumstances, it may determine the amount the appellant would have reasonably incurred to abate the nuisance himself, if given a reasonable time, and that amount shall be the most the authorized officer shall certify and the most the town shall recover, as a charge and lien against the property.
- E.** If the master board of appeals, upon a timely and proper appeal, finds the correction order unjustified, the authorized officer shall not certify and the town shall not recover abatement costs as a charge or lien against the property, and the town shall pay to the owner the reasonable amount of any damages caused by the town's abatement under the unjustified correction order, but not more than the fair market value of the property before the town's abatement activities

Article 8
CHAPTER 3

TRASH, JUNK, AND DEBRIS

SECTION:

8-3-1: Definitions

8-3-2: Nuisance Declared

8-3-3: Prohibited Accumulations Designated

8-3-4: Violation - Penalty

8-3-1 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abutting Land: A parcel of land which has a common property line with another parcel of land.

Alley: A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on the street. Its use is for secondary access to the lot and/or service purposes. An alley shall not be considered to be a street.

Commercial / Business: means and includes all kinds of vocations, occupations, home occupations, professions, enterprises and establishments, any of which are conducted on any premises or are otherwise carried on within the town or anywhere else within its jurisdiction.

Garbage: means wastes resulting from the handling, preparation, cooking, or consumption of food and wastes from the handling, storage, or sale of produce.

Household Trash: is defined to include, but is not limited to, items such as rubbish, trash, waste, refuse, paper, tin cans, bottles, glass, containers, rags, ashes, bones, cloth, or other materials common to household use or objects that may become a breeding place for flies, mosquitoes, or vermin, or that give off unpleasant odors.

Junk or Debris: shall mean any material or object, used or new, that is not presently useable or designed to be used in their existing condition or location, such as scrap metals, rubber pieces, rope, asphalt, concrete, plaster, tile, bricks, crates, cartons, barrels, boxes, tree limbs, leaves, dead plants and trees, trimmings from plants and trees, grass clippings, tools, fixtures, utensils, lumber, pipe and pipe fittings, machinery or parts thereof, appliances, vending machines, furniture, motor vehicle parts, used motor vehicle used liquids and solutions, used tires, or any waste material from the

premises, including building materials for or produced from remodeling or construction, and material.

Street or Highway: means the entire width between the boundary lines of every right-of-way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular travel.

8-3-2 NUISANCE DECLARED.

A. Household Trash, Garbage, Junk, and Debris. It is unlawful for any person to:

- (1) Permit household trash, garbage, junk or debris to accumulate on any property not zoned for such purposes. All trash, garbage, junk or debris shall be stored in a container or sealed plastic trash bag awaiting prompt pickup and disposal, and the storage area shall be kept free of loose trash, garbage, junk and debris. Any household trash, garbage, junk or debris by its nature is incapable of being stored in containers or sealed plastic bags may be neatly stacked or stored for prompt pickup and disposal. Containers and trash bags shall be secured and placed where they are not susceptible to being spilled by animals or wind or other elements;
- (2) Place or to permit to remain anywhere in the town any household trash, garbage, junk or debris, or other material subject to decay other than leaves or grass, except in watertight and airtight cans or containers, which neither creates an odor or stench or is accessible to animals. This subsection (2) shall not apply to vegetable materials in any properly layered, actively working compost pile;
- (3) Drive or move any loaded truck or other loaded vehicle within the town, unless such vehicle is loaded or covered so as to prevent any load, contents, or litter from being blown or deposited upon any street, highway, alley, or other public place;
- (4) Operate or cause to be operated on any highway or public way in the town, any truck or vehicle transporting trash, junk and debris unless such vehicle or truck is fitted with a substantial, tight box or other container thereon so that no portion of such garbage, trash, or junk shall be thrown or fall upon the highway or public way;
- (5) Display, or cause or allow to be displayed, upon the property any nuisance, as defined in this ordinance;
- (6) Keep or store any construction materials for construction at that location unless such materials are for an active building permit on file at the town office;
- (7) Store upon his property or to allow to be viewed by the general public, or

any member thereof, goods, material, or substances not otherwise or specifically defined or definable as trash, garbage, junk and debris but which goods, materials, or substances are of a type, kind, quantity or description not commonly associated with the zoning classification or permitted use of the property;

- (8) Use any trailer, whether covered or uncovered, to store any litter, garbage, trash and junk upon his property, unless the trailer is used for the purposes of recycling; Recycling trailer must be moved and emptied every 45 days;
- (9) Deposit in or on any street, alley, or public place debris, sod, earth, sand, gravel, concrete, or any other household trash, junk, garbage, debris, or construction waste or material;
- (10) Notwithstanding the foregoing, the prohibitions in (1) and (6) - (9) above shall not apply if such uses of the property are incidental to and necessary for the carrying out of any business or occupation lawfully being carried on upon the property in question and are permitted in the applicable zoning district.

8-3-3 PROHIBITED ACCUMULATIONS DESIGNATED.

- A. It is unlawful for any owner, lessee, agent, occupant or person in possession or control of any occupied or unoccupied lot or tract of land or any part thereof in the town to permit or maintain on any such lot or tract of land, or on or along the sidewalk, street or alley adjacent to the same, any accumulation of trash, junk and debris.

8-3-4 VIOLATION – PENALTY.

The following penalties, set out in this section, shall apply to this chapter.

- A. It is unlawful for any person to violate any of the provisions stated or adopted in this chapter.
- B. Every person who violates any provision stated or adopted in this chapter shall be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) for each offense. Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense. However, no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment, and no imprisonment shall be allowed under this chapter.

Article 8
Chapter 4

SIDEWALKS

Sections:

8-4-1: Definitions

8-4-2: Unsafe Sidewalks and Rights-of-Way.

8-4-3: Person Responsible for Vacant Property

8-4-4: Violation – Penalty

8-4-5: Permit Required for Repair or Replacement

8-4-6: Town Responsibility

8-4-1 DEFINITIONS.

Alley means a minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on the street. Its use is for secondary access to the lot and/or service purposes. An alley shall not be considered to be a street.

Sidewalk means a paved path for pedestrians at the side of a road.

Street or highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

8-4-2 UNSAFE SIDEWALKS AND RIGHTS-OF-WAY.

A. Hazards and Obstructions.

- (1) It shall be unlawful for the owner or occupant of any building, property or lot in the town to fail to maintain the sidewalks, curb, and gutters adjacent to such property, including those on public rights-of-way, in a clean and repaired condition and free of hazards and obstructions, including, but not limited to, piles of materials, vegetation, weeds, tree limbs, trash containers, structures, sports equipment, or any other object located less than seven (7) feet above a sidewalk.
- (2) It shall be unlawful for the owner or occupant of any building, property or lot in the town to deposit, place or otherwise locate, or to allow the

deposition, placement or location, upon any public right-of-way adjacent to such building property or lot any hazard or obstruction, including, but not limited to, piles of materials, vegetation, weeds, tree limbs, trash containers, structures, sports equipment. An exception is made for lawfully parked motor vehicles.

- B. Snow and Ice.** It shall be unlawful for the owner or occupant of any building, property or lot in the town to fail to remove the accumulation of snow, sleet, hail or ice from the sidewalks adjacent to such property, including those on public rights-of-way, within twenty-four (24) hours after the termination of each such snowfall, sleet, hail or ice. It shall further be unlawful for any person, to deposit, or cause to be deposited, any snow, sleet, hail or ice against any fire hydrant, or other appurtenance, or onto any public or private property that is not owned by, occupied by or otherwise under the legal control of the person without the express consent of the owner or occupant of the property.

8-4-3 PERSON RESPONSIBLE FOR VACANT PROPERTY.

- A.** Where any premises or parts of premises are not occupied in any manner, it shall be the duty of the owner thereof to comply with the requirements of sections 8-5-2.
- B.** In the event the owner of any such premises so unoccupied shall be a nonresident of the town or absent from the town, that owner shall appoint a resident agent who shall have charge of such premises and shall comply with the requirements imposed in sections 8-5-2.

8-4-4 VIOLATION-PENALTY.

- A.** It shall be unlawful for any person to violate or fail to comply with any of the provisions of this chapter, and the police officer or officers of the town shall have the ability to issue a summons and complaint for violations of any of the sections of this chapter.
- B.** Every person who violates any provision stated or adopted in this chapter shall be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) for each offense. Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense. However, no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment, and no imprisonment shall be allowed under this chapter.

8-4-5 PERMIT REQUIRED FOR REPAIR OR REPLACEMENT.

- A.** No property owner, occupant or other person shall repair, replace or modify any sidewalk located in the public right-of-way without first obtaining a permit for such construction. All sidewalk construction or modification shall comply with

this the Town of Wiggins Land Development Code. Permits may be reviewed and approved by the Planning Department and the Town Manager.

- B.** Sidewalks shall be repaired or replaced when they have become unsafe due to deterioration or movement of the earth or movement of the sidewalk so as to create a hazard to pedestrians. Sidewalk repair or replacement is the responsibility of the property owner upon whose property the sidewalk is located or whose property is adjacent to the sidewalk or right-of-way on which the sidewalk lies.
- C.** Sidewalks shall be repaired or replaced only as follows:
 - (1)** By repairing or replacing the sidewalk in a manner that puts the sidewalk in a condition as close as possible to the original sidewalk using similar materials, grade and size and taking into consideration adjacent and other neighborhood sidewalks and considering uniformity and safety.
 - (2)** In accordance with the specifications set forth in the Town of Wiggins Land Development Code, so long as the sidewalk is compatible with the style, material, colors and details of surrounding buildings. Sidewalks should not be constructed of asphalt.
 - (3)** Sidewalk repair, replacement or construction shall be completed in a manner that provides for the safety of pedestrians and complies with the requirements of the Americans with Disabilities Act when applicable.

8-4-6 TOWN RESPONSIBILITIES.

The town will replace or repair curb and gutter and any sidewalk combined with the curb and gutter, commonly referred to as a rollover curb. Any person or entity that causes damage to any curb and gutter shall reimburse the town for such repair or replacement cost.

Article 8
Chapter 5

LANDSCAPE MATERIALS

SECTION:

8-5-1: Definitions

8-5-2: Nuisance Declared

8-5-3: Violation - Penalty

8-5-1 Definitions.

For the purpose of this chapter, the following shall be defined as:

Landscape Material: Landscape materials shall be considered by not limited to, brick, gravel, rock, or stone, concrete, timber, bitumen, glass, metals, sod, trees, bushes, mulch, fencing materials, and anything that may be used to landscape or to improve the property landscaping.

Right-of-Way: A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, and bridges.

8-5-2 Nuisance Declared.

It shall be unlawful for any person to store, accumulate, or keep, or allow the accumulation, storage or keeping of, any landscape materials on a public right-of-way except in accordance with the following provisions:

- A. Time limits.** Landscape materials that can be eroded or moved by the elements may be stored on a public right-of-way for no more than three (3) days. Other landscape materials may be stored on a public right-of-way for no more than days (3) days unless an extension of such time has been approved by the town manager or his/her designee.
- B. Placement.** If placed in a town right-of-way, landscape materials must be stored on the right-of-way immediately adjacent to the property on which they will be used and in such a manner as to minimize disruption to the owners or occupants of adjacent property. Landscape materials shall not block access to and from side streets, alleys, maintenance roads, walkways, driveways, sidewalks, bike paths, fire hydrants, fire stations, fire escapes, mail boxes, dumpsters, parked vehicles, water valves, valve housing structures, or any other vital equipment.
- C. Erosion Barrier.** Landscape materials that can be eroded or moved by the

elements shall be completely covered by material that will protect them from erosion or movement.

- D. Traffic Hazard Prohibited.** Landscape materials stored in the public right-of-way must be flagged, coned or otherwise marked in such a manner as to alert a reasonable person to the presence of the materials and allow such person to safely navigate around the materials.

8-5-3 VIOLATION – PENALTY.

The following penalties, set out in this section, shall apply to this chapter.

- A.** It is unlawful for any person to violate any of the provisions stated or adopted in this chapter.
- B.** Every person who violates any provision stated or adopted in this chapter shall be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) for each offense. Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense. However, no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment, and no imprisonment shall be allowed under this chapter.

Article 8
CHAPTER 7

WEEDS AND VEGETATION

SECTION:

8-7-1: Definitions

8-7-2: Nuisance Declared

8-7-3: Prohibited Accumulations Designated

8-7-4: Violation - Penalty

8-7-1 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abutting Land: A parcel of land which has a common property line with another parcel of land.

Alley: A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on the street. Its use is for secondary access to the lot and/or service purposes. An alley shall not be considered to be a street.

Brush: Volunteer growth of bushes, shrubs and trees such as are growing wild and without care and includes all cuttings from trees, shrubs and bushes and high and rank shrubbery growth which may conceal filthy deposits.

Commercial / Business: means and includes all kinds of vocations, occupations, home occupations, professions, enterprises and establishments, any of which are conducted on any premises or are otherwise carried on within the town or anywhere else within its jurisdiction.

Dandelions: The weed *Taraxacum Officinale* Weber.

Street or Highway: means the entire width between the boundary lines of every right-of-way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular travel.

Weeds mean:

- A. Those plant species that are designated as noxious and which fall within three (3) categories (list A, list B and list C), as determined by the Colorado noxious weed act, section 35-5.5-101 et seq., Colorado Revised Statutes, as amended, and further defined by rules set forth by the Colorado department of agriculture pertaining to the administration and enforcement of the Colorado noxious weed

act.

- B. In addition to the foregoing, "weeds" includes brush, whether noxious or not, which is in excess of six inches (6") in height and which meets the definition of "brush" stated in this section.
- C. The foregoing is not intended to be exclusive, but rather is intended to be indicative of those types of plants which are considered a detriment to the public health, safety, and welfare, and does not include flower gardens, plots of shrubbery, vegetable gardens.

8-7-2 NUISANCE DECLARED.

- A. *Weeds, Brush, Leaves, and Grass Clippings.* Any unauthorized accumulation of weeds, brush, refuse or rubbish on any premises is declared to be a nuisance and a health hazard and is prohibited.
 - (1) To permit weeds, grasses or brush to grow to a height in excess of six (6) inches upon any lot, tract or parcel owned or occupied by such person;
 - (2) To store, keep or permit to remain on any lot, tract or parcel owned or occupied by such person trees, limbs or branches of trees, shrubs or plants, whether alive or dead, which are dangerous to health or property;
 - (3) To fail to remove trees, limbs or branches of trees, shrubs or plants, whether alive or dead, which are dangerous to health or property, together with all litter of all kinds, from any lot, tract or parcel owned or occupied by such person;
 - (4) Cause or permit to accumulate any grass clippings or leaves anywhere in the Town. This subsection (4) shall not apply to vegetable materials in any properly layered, actively working compost pile, or to a thin layer of grass clippings used as mulch, provided the grass clippings are not able to blow from the property and do not cause an odor that can be detected from any adjacent property;
 - (5) To permit weeds, grasses or brush to grow to a height in excess of six (6) inches, to store, keep or permit to remain any trees, limbs or branches of trees, shrubs or plants, whether alive or dead, which are dangerous to health or property, or to fail to remove the same together with all litter of all kinds, upon and from the area from any lot, tract or parcel owned or occupied by such person to the middle of any alley abutting behind or on the side of the lot, tract or parcel, or upon and from the area from any lot, tract or parcel owned or occupied by such person to the street abutting to the front or on the side of the lot, tract or parcel, such area to include but not limited to the curb, gutter and sidewalk.

8-7-3 PROHIBITED ACCUMULATIONS DESIGNATED.

- A.** It is unlawful for any owner, lessee, agent, occupant or person in possession or control of any occupied or unoccupied lot or tract of land or any part thereof in the town to permit or maintain on any such lot or tract of land, or on or along the sidewalk, street or alley adjacent to the same, any growth of weeds to a height greater than six (6") inches, or any accumulation of weeds or brush.

8-7-4 VIOLATION – PENALTY.

The following penalties, set out in this section, shall apply to this chapter:

- A.** It is unlawful for any person to violate any of the provisions stated or adopted in this chapter.
- B.** Every person who violates any provision stated or adopted in this chapter shall be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) for each offense. Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense. However, no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment, and no imprisonment shall be allowed under this chapter.

Article 8
CHAPTER 8
FIREWORKS

SECTION:

8-8-1: Definitions

8-8-2: Sale and Discharge Prohibited; Exception

8-8-2: Retail Sales License – Required

8-8-3: Retail Sales License – Requirements

8-8-4: Retail Sales License-Terms – Fee

8-8-5: Unlawful Sale and Possession

8-8-6: Seizure by Police

8-8-7: Violations; Penalty

8-8-1 DEFINITIONS.

Fireworks: Any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, which meets the description of fireworks as set forth in the United States Department of Transportation Hazardous Materials Regulations at title 49, Code of Federal Regulations, parts 173.88 and 173.100.

Fireworks do not include:

- a) Toy caps which do not include more than 0.25 of a grain of explosive compound per cap;
- b) sparklers, trick matches, fountains and other fireworks that remain on the ground;
- c) Highway flares, railroad fuses, smoke candles and other emergency signaling devices;
- d) Education rockets and toy propellant device-type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means.

Person: includes an individual, partnership, firm, company, association, corporation, or governmental agency.

8-8-2 SALE AND DISCHARGE PROHIBITED, EXCEPTION.

- A. It is unlawful for any person, firm or corporation to sell, exhibit, offer or expose for sale, or to have in his possession, lend or give away, set fire to, discharge or explode, any squib, rocket, cracker, torpedo, grenade, cans, gun, revolver, pistol, cap, cartridge, or other combustible fireworks of any kind in the town; except that such fireworks as are allowed by Colorado state statutes shall be allowed in the town. Said state statutes specifically provide as follows:
 - 1. Prohibited "fireworks" means any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, fireworks, torpedoes, skyrockets, rockets, Roman candles, daygo bombs, and torches, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

8-8-3 RETAIL SALES LICENSE – REQUIRED.

- A. No person shall sell at retail any type of fireworks including fountains, pinwheels, sparklers or torches until he has obtained a license from the city council

8-8-4 RETAIL SALES LICENSE – REQUIREMENTS.

A license to sell fireworks in this city shall issue only for such sales as are permitted under this chapter and the state statutes, and only when the city council has determined that the vendor meets the following requirements.

- A. That the applicant, or if a corporation, its officers and directors, are of a good moral character and reputation.
- B. That the applicant has no plan, intent or scheme to make sales which are prohibited by this chapter or the state statutes.

8-8-5 RETAIL SALES LICENSE-TERM – FEE.

- A. A retailer’s license shall be good only for the calendar year in which it is issued.
- B. A retailer’s license shall apply to only one retail location and to only one person. It shall not be transferable, and shall be displayed in an open and obvious manner

at all times at the place of business where the person to whom the license is issued is authorized to sell fireworks.

- C. The fee for a Retailer of Fireworks Permit shall be \$25.00, or as otherwise set by the Board of Trustees.

8-8-6 UNLAWFUL SALE OR POSSESSION.

- A. Except as otherwise provided in this chapter, it is unlawful for any person to offer for sale, expose for sale, sell or have in his possession with intent to offer for sale, sell or to use any fireworks within the city.
- B. The Town Board of Trustees or their designee shall be authorized from time to time, based upon climatic conditions related to the danger of fire, and upon the recommendation of the fire chief, to prohibit by resolution the sale and use of all forms of fireworks as defined in section 12-28-101(3), Colorado Revised Statutes, including permissible fireworks as defined in section 12-28-101(8), Colorado Revised Statutes, and all other explosive materials for pyrotechnic displays within the town, except for professional firework displays specifically approved by the fire chief in advance of any such display, pursuant to section 12-28-103, Colorado Revised Statutes.
- C. Whenever a prohibition has been declared by the Town Board of Trustees or their designee pursuant to this section, the Police Chief is authorized and directed to enforce the ban on any sale of fireworks within the town and to seize, take and remove, at the expense of the owner, all stocks of fireworks, including permissible fireworks, offered or exposed for sale, stored or held in violation of, and to seize, take and remove all such fireworks from a person using them in violation of a prohibition declared by the Town Board of Trustees.

8-8-7 SEIZURE BY POLICE.

- A. The Police Department shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this chapter.

8-8-8 VIOLATION; PENALTY.

Violation of this chapter shall be punished by a fine up to and including one thousand dollars (\$1,000) for each violation, but no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment; however, failure to pay a fine may result in imprisonment pursuant to section 13-10-113, Colorado Revised Statutes. A separate offense shall be deemed committed on each day during or on which a violation of this Ordinance occurs or continues.

Article 8
CHAPTER 8
FIREWORKS

SECTION:

8-8-1: Definitions

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8-8-1 DEFINITIONS.

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Fireworks do not include:

- a) Toy caps which do not include more than 0.25 of a grain of explosive compound per cap;
- b) sparklers, trick matches, fountains and other fireworks that remain on the ground;
- c) Highway flares, railroad fuses, smoke candles and other emergency signaling devices;
- d) Education rockets and toy propellant device-type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means.

Person: includes an individual, partnership, firm, company, association, corporation, or governmental agency.

8-8-2 SALE AND DISCHARGE PROHIBITED, EXCEPTION.

- A. It is unlawful for any person, firm or corporation to sell, exhibit, offer or expose for sale, or to have in his possession, lend or give away, set fire to, discharge or explode, any squib, rocket, cracker, torpedo, grenade, cans, gun, revolver, pistol, cap, cartridge, or other combustible fireworks of any kind in the town; except that such fireworks as are allowed by Colorado state statutes shall be allowed in the town. Said state statutes specifically provide as follows:
 - 1. Prohibited "fireworks" means any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, fireworks, torpedoes, skyrockets, rockets, Roman candles, daygo bombs, and torches, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

8-8-3 RETAIL SALES LICENSE – REQUIRED.

- A. No person shall sell at retail any type of fireworks including fountains, pinwheels, sparklers or torches until he has obtained a license from the city council

8-8-4 RETAIL SALES LICENSE – REQUIREMENTS.

A license to sell fireworks in this city shall issue only for such sales as are permitted under this chapter and the state statutes, and only when the city council has determined that the vendor meets the following requirements.

- A. That the applicant, or if a corporation, its officers and directors, are of a good moral character and reputation.
- B. That the applicant has no plan, intent or scheme to make sales which are prohibited by this chapter or the state statutes.

8-8-5 RETAIL SALES LICENSE-TERM – FEE.

- A. A retailer’s license shall be good only for the calendar year in which it is issued.
- B. A retailer’s license shall apply to only one retail location and to only one person. It shall not be transferable, and shall be displayed in an open and obvious manner

at all times at the place of business where the person to whom the license is issued is authorized to sell fireworks.

- C. The fee for a Retailer of Fireworks Permit shall be \$25.00, or as otherwise set by the Board of Trustees.

8-8-6 UNLAWFUL SALE OR POSSESSION.

- A. Except as otherwise provided in this chapter, it is unlawful for any person to offer for sale, expose for sale, sell or have in his possession with intent to offer for sale, sell or to use any fireworks within the city.
- B. The Town Board of Trustees or their designee shall be authorized from time to time, based upon climatic conditions related to the danger of fire, and upon the recommendation of the fire chief, to prohibit by resolution the sale and use of all forms of fireworks as defined in section 12-28-101(3), Colorado Revised Statutes, including permissible fireworks as defined in section 12-28-101(8), Colorado Revised Statutes, and all other explosive materials for pyrotechnic displays within the town, except for professional firework displays specifically approved by the fire chief in advance of any such display, pursuant to section 12-28-103, Colorado Revised Statutes.
- C. Whenever a prohibition has been declared by the Town Board of Trustees or their designee pursuant to this section, the Police Chief is authorized and directed to enforce the ban on any sale of fireworks within the town and to seize, take and remove, at the expense of the owner, all stocks of fireworks, including permissible fireworks, offered or exposed for sale, stored or held in violation of, and to seize, take and remove all such fireworks from a person using them in violation of a prohibition declared by the Town Board of Trustees.

8-8-7 SEIZURE BY POLICE.

- A. The Police Department shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this chapter.

8-8-8 VIOLATION; PENALTY.

Violation of this chapter shall be punished by a fine up to and including one thousand dollars (\$1,000) for each violation, but no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment; however, failure to pay a fine may result in imprisonment pursuant to section 13-10-113, Colorado Revised Statutes. A separate offense shall be deemed committed on each day during or on which a violation of this Ordinance occurs or continues.

Article 8

CHAPTER 9

EMERGENCY ALARM SYSTEMS

SECTION:

8-9-1: Permit

8-9-2: Responsibility for Installation and Maintenance Costs

8-9-3: Rules and Regulations Generally

8-9-4: False Alarms

8-9-5: Violation; Penalty

8-9-1 DEFINITION.

For the purpose of this Section, alarm means a signal from a system requiring the dispatch of a police officer, and false alarm means a signal from an alarm system which is determined by the Chief of Police or his/her designee to have been made in error, as the result of electrical or electronic malfunction, or deliberately made by the person in control of said alarm system.

8-9-2 PERMIT.

A. It is unlawful to install and thereafter operate and maintain any emergency alarm device or system of any kind without having first obtained a permit therefor for each device or system installed and paid the applicable fee. An initial permit fee of twenty-five dollars (\$25.00) shall be paid prior to the installation of any such device or system in any place within Town or under any circumstances covered by the provision of the Ordinance. Permit renewal fees of \$10.00 shall be paid to the Town each Calendar for each active alarm system.

8-9-3 USER FEES FOR FALSE ALARMS.

- A.** Any person using an alarm system shall pay to the Town a fee as set forth in section 8-9-9, for response to a place of business or home by members of its Police Department, occasioned by a false alarm from the system, if and when the number of false alarms from the system exceed three (3) in any calendar year.
- B.** No false alarm shall be counted under the provisions of this Section if the owner or user of the alarm system has promptly notified the Police Department of the false alarm, if the alarm is occasioned by any criminal activity.

8-9-4 RESPONSIBILITY FOR INSTALLATION AND MAINTENANCE COSTS.

Any and all costs and recurring charges attributable to the installation and maintenance of systems permitted by this chapter which terminate directly in the Police Department or of the town, shall be the responsibility entirely by the licensee or permittee. If the location of the Police Department shall be changed at any time, necessitating changing the location of any alarm systems terminating at such department, such systems shall be moved at the expense of the licensee or permittee, and except as the Board of Trustees may deem appropriate, no part of such costs shall be the responsibility of the town.

8-9-5 RULES AND REGULATIONS GENERALLY.

The Town may from time to time adopt such reasonable rules and regulations as it may deem necessary to assure the quality, efficiency and effectiveness of any such emergency alarm devices.

8-9-6 FALSE ALARMS.

- A.** Except for alarms caused by an act of nature or through faulty telephone communications, a charge for each false burglar, holdup or police emergency alarm, or fire emergency alarm to which the police or fire personnel and equipment respond in excess of three (3) in any calendar year shall be paid to the Town through the Town Clerk's Office.
- B.** Repeated false alarms in excess of six (6) alarms in such year for whatever reason shall be grounds for suspension or termination by decision of the Chief of Police or his/her designee. of the permit for such system as a faulty system.
- C.** The Chief of Police or his/her designee shall at all times have the authority to suspend the permit for any such system until such time as suitable personnel practices are instituted or satisfactory repairs or replacement is made correcting such faulty system. The Chief of Police or his/her designee shall have the authority at any and all times to terminate the permit for any violation of this chapter or for any faulty system which cannot be made reliable against false alarms in keeping with the provisions of this section.
- D.** Any alarm system shall be deactivated or removed if the permit therefor is terminated or suspended and shall remain deactivated or removed until the suspension is terminated by reinstatement or a new permit therefor is issued.

8-9-7 ALARM SYSTEMS OUTSIDE OF TOWN.

The provisions of this Ordinance shall apply to any and all emergency alarm devices, the signal of which originates outside the corporate limits of the Town when such

signal terminates directly within or gives an alarm to the Police Department of the Town.

8-9-8 TRUNK-LINE FACILITIES.

No alarm system or device which transmits a signal or prerecorded message directly to the Police Department shall be connected to or be permitted to use the primary telephone trunk line serving any Town governmental facility.

8-9-9 VIOLATION; PENALTY.

- A.** A charge of \$50 for each false burglar, holdup or police emergency alarm, or fire emergency alarm to which the police or fire personnel and equipment respond in excess of three (3) in any calendar year shall be paid to the Town through the Town Clerk's Office.
- B.** Failure to pay such fee shall result in a summons and complaint being issued in Municipal Court.

this chapter shall be punished by a fine up to and including five hundred dollars (\$500.00) for each violation, but no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment; however, failure to pay a fine may result in imprisonment pursuant to Colorado Revised Statutes, 1973, 13-10-113.

Article 8
Chapter 12
**IMPOUNDMENT AND ABANDONED, PUBLICLY
KEPT, OR JUNKED VEHICLES**

SECTION:

- 8-12-1: Removal of Vehicles Generally
- 8-12-2: Storage and Disposal
- 8-12-3: Vehicles Abandoned, Kept on Public Property, or Junked
- 8-12-4: Abandonment and Public Keeping Prohibited
- 8-12-5: Junked Vehicle Prohibited - Exceptions
- 8-12-6: Restrictions on Storage of Vehicles – Ownership Requirements
- 8-12-7: Entry of Private Property
- 8-12-8: Waiver of Liability
- 8-12-9: Violation - Penalty
- 8-12-10: Owner’s Opportunity to Request a Hearing – Public Tow

8-12-1 REMOVAL OF VEHICLES GENERALLY.

Authorized when:

- A.** Members of the police department are authorized to remove or have removed a vehicle to the nearest place of safety, or to a garage designated or maintained by the police department, or by this municipality, under the circumstances listed here:
 - 1.** When any vehicle is left upon any bridge, causeway, or underpass, where the vehicle is an obstruction to traffic;
 - 2.** When a vehicle upon a street is so disabled as to be an obstruction to traffic, or the person or persons in charge of the vehicle are, by reason of physical injury or otherwise, incapacitated to such an extent as to be unable to provide for its custody and removal;
 - 3.** When a vehicle is being driven upon the streets and is not in proper condition to be driven;
 - 4.** When a vehicle is left on a street and is parked illegally so as to be a hazard or obstruction to the normal movement of traffic, or proper street or highway maintenance, or the collection of trash or other items by any town sanitation or recycling collection vehicle;

5. When a vehicle is in violation of this Code under section 8-12-4;
 6. When the driver of the vehicle is taken into custody by the police department and the vehicle would be left unattended, except on private property with the property owner's permission;
 7. When removal is necessary in the interest of public safety because of fire, flood, storm or another emergency reason;
 8. When a vehicle is on public property and is in violation of this Code under section 8-12-6;
 9. Any vehicle failing to display number plates or failing to display the proper number plate or plates assigned to the vehicle under the provision of C.R.S. title 42, as amended, or displaying number plates in a manner as to reasonably indicate a violation of any provision of C.R.S. title 42, or any other provision of state law with respect to motor vehicle number plates, while parked, attended or unattended, or traveling on the streets, highways or roadways of the town;
 10. When a vehicle is parked in a tow-away zone;
 11. When there is probable cause to believe that the driver of a vehicle has never obtained an operator's license;
 12. When there is probable cause to believe that the operator's license of the driver is suspended, revoked, denied or cancelled;
 13. When the officer has reason to believe that the driver is not in rightful possession of the vehicle and the officer cannot verify ownership through readily available methods;
 14. When the law otherwise requires impoundment.
- B.** Town parking enforcement officers, as authorized by the Chief of Police, and code enforcement inspectors can remove or order the removal of a vehicle to a garage designated or maintained by the police department, or by the town, under the circumstances set forth under subsections A.5, 8 and 10 of this section.
- C.** Members of the police department, the chief building official, code enforcement inspectors, and others authorized by the Town Manager may remove or order the removal of a junked vehicle from private real property pursuant to the nuisance abatement procedures in chapter 9.04 of the Health and Safety Ordinance.
- D.** The Chief of Police or designee shall require the owner of any abandoned, publicly kept, or junk vehicle removed under the authority of this section to pay a fee of \$50.00 in addition to actual cost of removal as an offset of costs incurred

by the police department associated with such removal before authorizing release of the vehicle.

8-12-2 STORAGE AND DISPOSAL.

Whenever an officer removes and impounds or stores a vehicle as authorized in section 8-12-1, such vehicle will be stored or disposed of in accordance with the provisions of C.R.S. §§ 42-4-1804 and 42-4-1805.

8-12-3 VEHICLES ABANDONED, KEPT ON PUBLIC PROPERTY, OR JUNKED.

A. DEFINITIONS:

As used in this chapter:

Abandoned or publicly kept vehicle means:

1. Any vehicle left on private property for 48 hours without the consent of the owner or lessee of such property or his or her legally authorized agent;
2. Any vehicle left on private property without the consent of the owner or lessee of the property or his or her legally authorized agent when such private property has been posted to give notice that any vehicles left on the private property without permission may be towed at the owner's expense. Such notice shall be posted with signs visible to ordinarily observant persons on the property;
3. Any vehicle, left on public property, including any portion of a highway, street, or other right-of-way for 48 hours or longer;
 - a. Parking in alley strictly prohibited;
4. Any sleeper vehicle or trailer parked on public property, including any portion of a highway, street, or other right-of-way, unless the vehicle is relocated within 48 hours away from a proximate frontage and then not parked within that proximate frontage for at least seven days, except as follows:
 - a. The sleeper vehicle must have motive power or remain connected to a vehicle with motive power for the duration of the permit.
 - b. The permitted sleeper vehicle shall adhere to all federal, state, and local laws, including all applicable parking regulations.
 - c. Trailers owned by bona fide contractors for the purpose of storing or moving materials, tools, or equipment necessary to make repairs or alterations on private property may be left for a limited time, not

to exceed 180 days, on the block face and the block face on the opposite side of the street of a particular parcel of private property where such repairs or alterations are actively occurring, if the owner of such trailer or trailers posts a conspicuous dated notice, including the address of the job site and contact information, or a copy of their building permit, on the street side of each such trailer.

d. Parking in alleys is strictly prohibited.

Camper coach means an item or mounted equipment, weighing more than 500 pounds, which when temporarily or permanently mounted on a motor vehicle adapts such vehicle for use as temporary living or sleeping accommodations.

Camper trailer means a wheeled vehicle having an overall length of less than 26 feet, without motive power, which is designed to be drawn by a motor vehicle over the public highways and which is generally and commonly used for temporary living or sleeping accommodations.

Junked means any vehicle which:

1. Does not bear valid, unexpired license plates, unless of a type specifically exempted from motor vehicle licensing by the laws of the State of Colorado; or
2. Is wrecked, damaged or substantially dismantled to the extent that such vehicle is inoperable; or
3. If designed to be capable of moving itself when in proper repair, is incapable of being moved under its own power in its existing condition, or does not have all tires inflated.

Motor home means a vehicle designed to provide temporary living quarters and which is built into, as an integral part of or a permanent attachment to, a motor vehicle chassis or van.

Multi-purpose trailer means a wheeled vehicle, without motive power, that is designed to be drawn by a motor vehicle over the public highways. A "multi-purpose trailer" is generally and commonly used for temporary living or sleeping accommodation and transporting property wholly upon its own structure and is registered as a vehicle.

Property means any real property within the town which is not a street, alley, or highway.

Proximate frontage means the location at which a vehicle is parked or any location on public property, including any portion of a highway, street, or other right-of-way, within 300 feet as measured along a route of direct vehicular access.

Sleeper vehicle means a camper coach, camper trailer, motor home, multi-purpose trailer, or trailer coach.

Street or highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Trailer means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle to carry its cargo load wholly upon its own structure and that is generally and commonly used to carry and transport property over the public highways.

Trailer coach means a wheeled vehicle having an overall length, excluding towing gear and bumpers, of not less than 26 feet, without motive power, that is designed and generally and commonly used for occupancy by persons for residential purposes, in temporary locations, and that may occasionally be drawn over the public highways by a motor vehicle and is licensed as a vehicle.

Vehicle means a machine propelled by power other than human power, and includes campers, trailers and other equipment designed to be carried upon or towed behind such powered vehicle, designed to travel along the ground by use of wheels, treads, runners or slides, or upon such vehicle, and transport persons or property or pull machinery, and shall include, without limitation, automobile, airplane, truck, trailer, camper, motorcycle, motor scooter, recreational vehicle, tractor, buggy and wagon.

8-12-4 ABANDONMENT AND PUBLIC KEEPING PROHIBITED.

- A.** It is unlawful to abandon or publicly keep any vehicle in the town.
- B.** Savings. This chapter shall not render lawful any act or omission prohibited under any other section of the Municipal Code or any other applicable law.
- C.** Exceptions. This prohibition shall not apply to vehicles placed by on-duty public safety personnel in performance of their official duties; or by state or town staff or contractors, or utility company staff or contractors, performing construction or maintenance activities under state or town authorization.

8-12-5 JUNKED VEHICLES PROHIBITED—EXCEPTIONS.

It is unlawful for any person to permit any junked vehicle to be left upon any street, highway, public property or, being the owner or tenant in possession of any real property in the town, to cause or permit any junked vehicle to be put upon or kept upon any real property in the town, except that this section shall not apply to the following conditions, which shall constitute an affirmative defense:

- A.** The vehicle is located upon the premises of a lawfully zoned vehicle repair or vehicle storage business; or

- B. The vehicle is stored within a completely enclosed structure; or
- C. In nonresidential areas, the vehicle is screened by a concealing fence not less than six feet in height and otherwise complying with town ordinances applicable to such fence, rendering the vehicle not visible to persons on adjacent private or public property to the extent concealment can be reasonably obtained under the conditions of topography and other attendant circumstances; or
- D. A maximum of one vehicle per lot or parcel of real property is permitted if the vehicle is currently undergoing repair or is awaiting the settlement of an insurance claim, provided the vehicle is removed or brought into compliance within 90 days; or
- E. A vehicle which is determined to be a motor vehicle collector's item as defined and regulated by Colorado Revised Statutes 42-12-401(2), as amended, so long as the keeping and storage of such motor vehicle is in compliance with said statute.

8-12-6 RESTRICTIONS ON STORAGE OF VEHICLES—OWNERSHIP REQUIREMENTS.

The storage of junked vehicles as authorized by subsections 8-12-6.C and E shall be permitted only as to vehicles owned by the occupant of the premises upon which such vehicle is located, or by members of the immediate family of the occupant.

8-12-7 ENTRY OF PRIVATE PROPERTY.

The chief of police of the police department, any police officer, or any designee appointed by the chief of police for the purpose of enforcing this chapter, is authorized to go on private property for the purpose of making an investigation of any violation of this chapter and for the purpose of determining ownership and condition of any motor vehicle reasonably appearing to be in violation of any of the provisions of this chapter.

8-12-8 WAIVER OF LIABILITY.

Neither the chief of police, the town manager, any police officer, their designees, or any person acting under their direction or control shall be liable or responsible in any manner to the owner of the vehicle, the person claiming to be the owner of a motor vehicle, or any other person, for or on account of any damage to the motor vehicle or other property, or the loss or damage of or to any property which may be contained within the motor vehicle as a result of towing, storing or disposing of the motor vehicle pursuant to the provisions of this chapter.

8-12-9 VIOLATION—PENALTY.

In addition to any other penalty, any vehicle found in violation of this chapter is a public nuisance, and the town attorney may bring a civil action before any court of

competent jurisdiction for abatement. The court shall assess all costs incurred by the town in securing the abatement, including storage expenses, and reasonable attorney's fees, against the person or persons owning the vehicle and otherwise having occupancy of the private property affected or custody of the junked or abandoned or publicly kept vehicle involved.

8-12-10 OWNER'S OPPORTUNITY TO REQUEST HEARING—PUBLIC TOW.

- A.** When any vehicle is towed or removed pursuant to this chapter, the police department shall, in addition to other notification requirements applicable to motor vehicles under the laws of the state, within five regular business days after receipt of the report from the Colorado Department of Revenue, or ascertainment of ownership of vehicles not subject to the Colorado reporting procedures, notify by certified mail or personal service the owner of record, if ascertained, of the owner's opportunity to request a hearing concerning the legality of the towing or removal of the abandoned, publicly kept, or junked vehicle, and that the request for hearing shall be submitted to the Wiggins Municipal Court. Such request shall be made in writing within 20 days of the mailing of such notice.
- B.** The court shall schedule a hearing on the matter within 30 days of the date of the request, and the hearing shall be conducted according to due process standards applicable to administrative hearings.
- C.** If it is determined at the hearing that the vehicle was illegally towed or removed following the direction and authority of the police department in disregard of the standards for junked and abandoned or publicly kept vehicles stated in this chapter, all towing and removal charges and storage fees assessed against the vehicles shall be forgiven or paid by the town; however, nothing shall relieve the owner of the obligation to mitigate the costs involved by prompt retrieval or disposal of the property.
- D.** If the court sustains the legality of the towing or removal, an administrative hearing fee of \$25.00 shall be assessed against the owner requesting the hearing.
- E.** All appeals of the decision of the court shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.



STAFF SUMMARY

Board of Trustees Work Session October 14, 2020

DATE: September 30, 2020

AGENDA ITEM NUMBER: 2

TOPIC: Building Permit Audit

STAFF MEMBER RESPONSIBLE: Hope Becker, Planning and Zoning Administrator

BACKGROUND:

It was recently brought to the Planning Department's attention by a builder, that the Kiowa Park new home building permits were being calculated incorrectly. The concern was that the water and sewer tap fees were being misapplied and may not be in compliance with the subdivision agreement (SA). After a staff review of a few random permits, it was determined that a deeper investigation was needed.

SUMMARY:

Staff performed an audit of how water and sewer tap fees were applied beginning with new home permits for Kiowa Park in 2016 to the present date. Every new home folder was reviewed and the cost breakdown sheets were examined. Staff used the building permit index spreadsheet to create a new spreadsheet that would reflect the new home addresses, the date the homes were built, the builders' names, the amount of water tap fee charged, and the amount of sewer tap fee charged.

Staff was fairly sure the miscalculations started in May of 2020 but wanted to be sure there were no other errors to be concerned about. Therefore, we went back to the beginning of new home builds in the Kiowa Park Subdivision.

Staff reviewed the current building permit fee schedule and the current SA to determine what the water and sewer tap fees should be for new homes in the Kiowa Park Subdivision. The fees listed below are how the water and sewer tap fees are listed in their perspective documents.

- The Town's current (2016-present) water and sewer tap fees as listed in the adopted fee schedule are \$11,500 and \$6,000, respectively.;
- The Kiowa Park Subdivision Agreement has the water and sewer tap fees listed as \$11,000 and \$6,500, respectively.

The Kiowa Park SA was meant to reflect the Town's fee schedule upon its creation. It was also determined that the listed Kiowa Park SA tap fees for single family homes has not changed since the agreement's creation. If the SA was meant to reflect the Town's current fee schedule, it was never caught. Although the figures are different in the SA, it does not mean that the SA is automatically wrong. It is not uncommon for specific SAs to have additional fees or fees that are not required of builders in other subdivisions.

The building permit cost breakdown sheet is given to builders for signature prior to receiving a building permit card. All past breakdown sheets indicate that builders have been billed \$11,500 for water taps and \$6,000 for the sewer taps since the beginning of the subdivision. Although this is different from what is listed in the SA (it reflects the town's fee schedule), the total amount is still the same as what the total would be for combined tap fees in the SA.

Staff discovered that the water and sewer tap fees per the SA were not being recorded properly on the building permit cost breakdown template used to create new permits. This discovery occurred after extensive reading of the Kiowa Park SA to prepare for their recently approved amendment. The appropriate change was made on the building permit cost breakdown to the sewer tap to reflect the SA \$6,500 fee; however, Staff failed to save the same change to the water tap fee on the same template. Instead, the water tap fee on the template remained at \$11,500. This failure means that builders were being charged the regular town water tap fee of \$11,500 and the SA sewer tap fee of \$6,500. The cost breakdown was over charging the builders by \$500. The audit showed that this overcharge only affected building permits after May 2020, which was about 31 permits.

Attached is a table by year indicating the number of new homes that were built in Kiowa Park Subdivision and what was charged for water and sewer taps. It should be noted: the audit information reflects a "no charge" for a small portion of permits issued in 2016 and 2017. These "no charges" were pre-paid water taps by the developer. Therefore, the builder would have reimbursed the developer for those fees at the time the property was purchased.

In the future, Staff will be billing the builders for future water and sewer tap fees as it is written in the SA. The town will also initiate an amendment to correct the SA and will make the appropriate will adjust the amount of tap fees in the enterprise fund budgets to reflect the correct amount.

Staff has already made the corrections to all building permit templates and is making a better effort to be more familiar with various subdivision agreements. Staff is currently working on breaking down the SAs for various subdivisions into bullet point checklists and information to be placed inside each subdivision folder as a quick reference. This should be of assistance for any new and existing employees the department. The quick reference sheet will have small points with page references to help save time for a reader to locate proper information within the SA.

FISCAL IMPACT:

The water and sewer fee refund of \$500 for each building permit issued from May 1, 2020 to September 25, 2020, is a total of \$15,500. The refunds are the overcharges of water taps based on the Kiowa Park SA. The funds will come from the Town of Wiggins Water Enterprise.

APPLICABILITY TO TOWN OBJECTIVES AND GOALS TO PROVIDE SERVICES:

The Town of Wiggins strives to maintain good relations with all of the builders within the developments. Providing reimbursement of this mis application of fees supports this objective,

QUESTIONS/INFORMATION REQUESTED FROM THE Board of Trustees

- **Does the Board have any questions of Staff?**
- **Does the Board of Trustees Agree with Staff's Analysis of the situation?**

EXHIBIT A

WATER AND SEWER TAPP FEE AUDIT

YEAR	#	WATER RATE	SEWER RATE
2016	8	PRE-PAID	PRE-PAID
2017	31	\$11,500	\$6,000
	9	PRE-PAID	PRE-PAID
2018	58	11,500	
	58		6,000
2019	47	11,500	
	47		6,000
2020	44	11,500	
	5	11,000	
	13		6,000
	36		6,500

EXHIBIT B

REIMBURSEMENT NUMBERS AT \$500 EACH

BUILDER	# OF PERMITS	TOTAL OF REIMBURSEMENT
LOW ENERGY HOMES	6	\$3,000
BAESSLER HOMES	21	\$10,500
2 VALLEY BUILDERS	4	\$2,000
TOTALS:	31	\$15,500

EXHIBIT C – REFUND STATEMENTS

SECOND AMENDMENT TO SUBDIVISION AGREEMENT
[Kiowa Park Planned Development Filing No. 3]

THIS SECOND AMENDMENT (“Second Amendment”) is made and entered into this ____ day of _____, 2020, by and between the **TOWN OF WIGGINS**, a Colorado municipal corporation, whose address is 304 Central Avenue, Wiggins CO 80654 (“Town”) and **KIOWA PARK, LLC**, a Colorado limited liability company, whose address is 1035 37th Avenue Court, Greeley, CO 80534 (“Subdivider”).

WHEREAS, the Town and Subdivider entered into that certain Subdivision Agreement for Kiowa Park Planned Development, Filing No. 3, which was recorded on _____, 20__ at Reception No. _____ in the Office of the Morgan County Clerk and Recorder, as amended by that certain First Amendment to Subdivision Agreement for Kiowa Park Planned Development, Filing No. 3, recorded on _____, 20__ at Reception No. _____ in the Office of the Morgan County Clerk and Recorder (as amended, the “Subdivision Agreement”); and

WHEREAS, the Town and Subdivider have determined that certain provisions of the Subdivision Agreement should be further amended as provided herein.

NOW, THEREFORE, in consideration of the recitals, promises, covenants and undertakings herein set forth, and other good and valuable consideration, which is hereby acknowledged and receipted for, the Town and the Subdivider agree as follows:

1. The foregoing recitals are incorporated herein. Capitalized terms not defined herein shall have that meaning as set forth in the Subdivision Agreement.

2. Section 5.2(a) of Subdivision Agreement is hereby amended to read as follows (words to be added are underlined):

5.2 Water Taps. (a) Until March 26, 2026, the tap fees for ¾” water taps shall be \$11,500 ~~\$11,000~~ per single-family detached dwelling and tap fees for two-family dwellings (duplexes) shall be \$17,500 per 1” water tap. After such date, the tap fee shall be at the rate in effect at the time application is made for a tap permit and subject to all laws, ordinances and resolutions in effect at such time. This agreed upon tap fee rate applies solely to residential taps issued solely for residential dwelling units within the Kiowa Park Planned Development property as legally described on Exhibit C and used solely for in-house domestic and associated residential lawn and garden use on the residential dwelling lots. In the event a tap issued under such rate is subsequently converted to any other use, there shall be paid the difference between the tap fee paid and the tap fees then in effect for such other use. Duplexes with shared taps shall be separately metered.

3. Section 6.2(a) of Subdivision Agreement is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

6.2 Sewer Taps. (a) Until March 26, 2026, the tap fees for sewer taps shall be ~~\$6,500~~ \$6,000 per single-family detached residential dwelling and \$6,500 per two-family dwelling (duplex). After such date, the tap fee shall be at the rate in effect at the time application is made for a tap permit and subject to all laws, ordinances and resolutions in effect at such time. This agreed upon tap fee rate applies solely to residential taps issued solely for residential dwelling units within the Kiowa Park Planned Development property as legally described on Exhibit C and used solely for use on the residential dwelling lots. In the event a tap issued under such rate is subsequently converted to any other use, there shall be paid the difference between the tap fee paid and the tap fees then in effect for such other use.

4. This Second Amendment may be executed in one or more counterparts, and when all counterparts are so signed, the sum of them shall be considered the original, and shall be deemed to have been signed as one integrated document.

5. Except as amended by this Second Amendment, the Subdivision Agreement shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the day and year set forth above.

TOWN OF WIGGINS, COLORADO

By: _____
Jeffrey Palmer, Mayor

ATTEST:

Tom Acre, Interim Town Clerk

SUBDIVIDER
KIOWA PARK, LLC
a Colorado limited liability company

By: _____
Its: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____ as _____ of Kiowa Park, LLC.

Witness my hand and official seal.

My commission expires: _____

(SEAL)

Notary Public

RESOLUTION NO. ____

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE SUBDIVISION AGREEMENT FOR KIOWA PARK PLANNED DEVELOPMENT, FILING NO. 3

WHEREAS, the Board of Trustees previously approved a Subdivision Agreement for the Kiowa Park Planned Development, Filing No. 3 and a First Amendment to the Subdivision Agreement; and

WHEREAS, the Town and Subdivider have determined that certain provisions of the Subdivision Agreement should be amended with respect to tap fees.

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WIGGINS, COLORADO:

Section 1. The proposed Second Amendment to the Subdivision Agreement for Kiowa Park Planned Development, Filing No. 3 between the Town and Kiowa Park, LLC is hereby approved in essentially the same form as accompanies this resolution

Section 2. The Mayor is authorized to execute the Second Amendment, and is further authorized to negotiate and approve on behalf of the Town such revisions to the First Amendment as the Mayor, in consultation with the Town Manager, determines are necessary or desirable for the protection of the Town, so long as the essential terms and conditions of the First Amendment are not altered.

INTRODUCED, READ, and ADOPTED this ____ day of _____, 2020.

TOWN OF WIGGINS, COLORADO

Jeffrey Palmer, Mayor

ATTEST:

Tom Acre, Interim Town Clerk



STAFF SUMMARY

Board of Trustees Work Session

October 14, 2020

DATE: October 12, 2020

AGENDA ITEM NUMBER: 3

TOPIC: Discussion on 2021 Budget Funding Priorities

STAFF MEMBER RESPONSIBLE: Tom Acre, Interim Town Manager

BACKGROUND:

Each year staff prepares a budget for the upcoming year to present to the Board of Trustees for formal adoption in December at a Public Hearing. Staff has prepared a draft budget to present to the Board of Trustees. Between now and the December adoption of the 2021 budget, staff would like to hold a series of discussions with the Board regarding the proposed budget.

SUMMARY:

The budget preparation takes into consideration the revenues and expenses required to provide the core functions on which to operate the Town. These costs include staff related expenses such as salaries and benefits, department operational costs, water, and wastewater utility costs. Revenues include sales tax, use tax, franchise fees, property tax, various fees for service water, and sewer tap fees, and revenues from water and wastewater utilities.

Staff is presenting a budget that is conservative, reflects priorities, and reflects uses ongoing revenue to fund ongoing needs, while using one-time revenue to fund one-time expenses. The initial draft budget reflects staff's analysis of what we anticipate revenue to be and anticipated needed expenses

FISCAL IMPACT:

There is no impact to the budget by going through this process.

APPLICABILITY TO TOWN OBJECTIVES AND GOALS TO PROVIDE SERVICES:

Adopting the 2021 Budget in December is a requirement of a local government.

QUESTIONS/INFORMATION REQUESTED FROM THE BOARD OF TRUSTEES:

- Does the Board of Trustees have any initial questions of staff?
- Would the Board like to meet next Wednesday to discuss the draft budget?
- What is the Boards thinking regarding assumptions for level of funding for such things as employee salaries and benefits?