



BOARD OF TRUSTEES

REGULAR MEETING AGENDA

April 27, 2022
7:00 PM
9900 Park Avenue
Firestone, CO 80504

PRE-MEETING WORK SESSION 6:30 PM IN THE TRAINING ROOM

AGENDA FOR THE WORK SESSION IS A DISCUSSION OF THE REGULAR MEETING AGENDA BELOW

REGULAR MEETING 7:00 PM IN THE BOARD ROOM

1. **Call to Order & Roll Call of Current Board of Trustees**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
4. **Approval of Meeting Minutes**
 - a. Approval of March 30, 2022 Meeting Minutes
 - b. Approval of March 23, 2022 Meeting Minutes
5. **Honoring Mayor Sindelar & Trustee Meiring for their Years of Service**
6. **Meeting Break**
7. **Swearing-In of Newly Elected Officials**
8. **Call to Order & Roll Call of Newly Elected Board of Trustees**
9. **Public Comment** *(maximum time permitted for all Public Comment is 30 minutes)
10. **Consent Agenda**
 - a. **Ordinance 1010: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ENACTING SECTION 8.06.55 OF THE FIRESTONE MUNICIPAL CODE PERTAINING TO NUISANCES**
11. **Discussion/Action**

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. Individuals are allotted 3 minutes of Public Comment during the entirety of the meeting. Maximum time permitted for all Public Comment during a meeting is 30 minutes.

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town Clerk's Office at 303-531-6264 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

- a. **Resolution 22-49:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE APPROVING THE WATER CREDIT AGREEMENT BY AND BETWEEN, THE TOWN OF FIRESTONE AND TSG DEL CAMINO JUNCTION, LLC
- b. **Resolution 22-47:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR THE ESTABLISHMENT OF AN EMERGENCY MANAGEMENT SERVICE AREA, AN EMERGENCY MANAGEMENT COORDINATOR, AND FOR THE SHARING OF ASSOCIATED COSTS, BETWEEN THE TOWN OF FIRESTONE, TOWN OF FREDERICK, CITY OF DACONO, AND THE FREDERICK-FIRESTONE FIRE PROTECTION DISTRICT
- c. **Resolution 22-48:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE, TOWN OF FREDERICK, CITY OF DACONO, AND NORTH RANGE BEHAVIORAL HEALTH TO ESTABLISH AND OPERATE A CO-RESPONDER PROGRAM
- d. **Ordinance 1008:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO REPEALING AND REENACTING IN ITS ENTIRETY CHAPTER 10.04 TRAFFIC CODE OF THE FIRESTONE MUNICIPAL CODE
- e. **Ordinance 1009:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO REPEALING AND REENACTING IN ITS ENTIRETY TITLE 9 PUBLIC PEACE MORALS AND WELFARE OF THE FIRESTONE MUNICIPAL CODE
- f. Selection of a Mayor Pro Tem

12. Public Comment *(maximum time permitted for all Public Comment is 30 minutes)

13. Reports

- a. Staff
- b. Mayor
- c. Trustees

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. Individuals are allotted 3 minutes of Public Comment during the entirety of the meeting. Maximum time permitted for all Public Comment during a meeting is 30 minutes.

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town Clerk's Office at 303-531-6264 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

14. Adjournment

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. Individuals are allotted 3 minutes of Public Comment during the entirety of the meeting. Maximum time permitted for all Public Comment during a meeting is 30 minutes.

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town Clerk's Office at 303-531-6264 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. Individuals are allotted 3 minutes of Public Comment during the entirety of the meeting. Maximum time permitted for all Public Comment during a meeting is 30 minutes.

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town Clerk's Office at 303-531-6264 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 4.a

Approval of Meeting Minutes

Meeting Date: April 27, 2022

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Approval of March 30, 2022 Meeting Minutes

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of March 30, 2022 Meeting Minutes

ALTERNATIVES

ATTACHMENTS

1. March 30, 2022 Meeting Minutes

FINANCIAL CONSIDERATIONS

TOWN OF FIRESTONE, COLORADO
Board of Trustees Special Meeting
MINUTES
March 30, 2022

1. Call to Order & Roll Call

The Board of Trustees of the Town of Firestone met for a Special Meeting on March 30, 2022, at the Police Department & Municipal Court building. 9900 Park Avenue, Firestone, Colorado. Mayor Sindelar called the meeting to order at 6:33 PM.

The following were present upon the call of the roll:

Mayor: Bobbi Sindelar

Mayor Pro-tem: Frank A. Jimenez

Trustees: Don Conyac
David Whelan
Samantha Meiring
Sean Doherty
Doug Sharp

Staff: **Present:** Jan Sloat, Director of Human Resources; Paula Mehle, Director of FURA & Economic Development; Raelynn Ferrera, Assistant to the Town Manager; Katie Hansen, Director of Communications; Julie Pasillas, Director of Public Works; Jessica Koenig, Town Clerk; AJ Krieger, Town Manager

2. Pledge of Allegiance

Mayor Sindelar led the pledge of allegiance.

3. Approval of Agenda

Motion by Trustee Whelan, **second** by Trustee Conyac, to Amend the Agenda to correct the agenda title of Agenda Item 4a to match the resolution title.

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

4. Discussion/Action

- a. **Resolution 22-46:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING A NATIVE WATER DEDICATION AGREEMENT WITH COTTONWOOD COLORADO RESIDENTIAL LLC

Motion by Trustee Meiring, **second** by Trustee Conyac, to Approve **Resolution 22-46:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING A NATIVE WATER DEDICATION AGREEMENT AND ADDENDUM WITH CK H2O VENTURES LLC A COLORADO LIMITED LIABILITY COMPANY, MILLRACE RESOURCES LLC A COLORADO LIMITED LIABILITY COMPANY AND FRONTIER VENTURES LLC, A COLORADO LIMITED LIABILITY COMPANY

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

5. Executive Session

- a. An executive session pursuant to C.R.S. 24-6-402(4)(f)(I) for a personnel matter regarding the annual evaluation of the Town Manager

Motion by Trustee Conyac, **second** by Trustee Whelan, to go into an executive session pursuant to C.R.S. 24-6-402(4)(f)(I) for a personnel matter regarding the annual evaluation of the Town Manager All in Favor, **Motion carried.**

open: 6:59 PM

close: 8:23 PM

6. Adjournment

The Board of Trustees adjourned at 8:23 PM.

Introduced and Approved the 27th of April, 2022.

TOWN OF FIRESTONE, COLORADO

ATTEST

Bobbi Sindelar, Mayor

Jessica Koenig, Town Clerk

DRAFT

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 4.b

Approval of Meeting Minutes

Meeting Date: April 27, 2022

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Approval of March 23, 2022 Meeting Minutes

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of March 23, 2022 Meeting Minutes

ALTERNATIVES

ATTACHMENTS

1. March 23, 2022 Meeting Minutes

FINANCIAL CONSIDERATIONS

TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
MINUTES
March 23, 2022

1. Call to Order & Roll Call

The Board of Trustees of the Town of Firestone met for a Regular Meeting on March 23, 2022, at the Police Department & Municipal Court building, 9900 Park Avenue, Firestone, Colorado. Mayor Sindelar called the meeting to order at 7:04 PM.

The following were present upon the call of the roll:

Mayor: Bobbi Sindelar
Mayor Pro-tem: Frank A. Jimenez
Trustees: Don Conyac
David Whelan
Samantha Meiring
Sean Doherty
Doug Sharp

Staff: **Present:** Jan Sloat, Director of Human Resources; Paula Mehle, Director of FURA & Economic Development; Raelynn Ferrera, Assistant to the Town Manager; Katie Hansen, Director of Communications; Jessica Clanton, Director of Finance; Julie Pasillas, Director of Public Works; Todd Bjerkaas, Director of Planning; Marty Ostholhoff, Planning Manager; David Angelo, Chief of Police; Jessica Koenig, Town Clerk; AJ Krieger, Town Manager; & Keith Martin, Town Attorney

2. Pledge of Allegiance

Mayor Sindelar led the pledge of allegiance.

3. Approval of Agenda

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Conyac, to Approve the Agenda.

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

4. Public Comment *(maximum time permitted for all Public Comment is 30 minutes)

There was no one present that wished to give public comment.

5. Consent Agenda

Motion by Trustee Sharp, **second** by Trustee Doherty, to Approve the Consent Agenda
Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez,
Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

a. Approval of March 9, 2022 Meeting Minutes

b. **Resolution 22-42:**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, PRESCRIBING THE RATE FOR PAYMENT OF CASH-IN-LIEU OF WATER RIGHT DEDICATIONS TO THE TOWN OF FIRESTONE, COLORADO

c. **Resolution 22-40:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN STEVE BALCEROVICH AND KATHY OATIS FOR GENERAL COLORADO GOVERNMENTAL AFFAIRS SERVICES

d. Cancellation of the April 13, 2022 Regular Board of Trustees Meeting

e. Cancellation of April 20, 2022 Board of Trustees Work Session

f. 2022 Water Leasing Recommendation Memo

6. Presentation

a. Mayor's Award

The Mayor's Award was awarded to Michael and Collette Ringhand.

b. Carbon Valley Recreation District Presentation

c. Police Department Strategic Plan Update

7. Land Development

- a. **PUBLIC HEARING: Ordinance 1007:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, FROM REGIONAL COMMERCIAL(RC) AND RESIDENTIAL-C (R-C) ZONING DISTRICTS TO REGIONAL COMMERCIAL (RC) AND RESIDENTIAL-B (R-B) ZONING DISTRICTS

Mayor Sindelar opened the public hearing at 8:40 PM.

Marty Ostholthoff, Planning Manager, presented to the Board of Trustees.

Jon Hall, owner, and Tyler Smith, consultant to the owner, presented to the Board of Trustees.

Mr. Hall and Mr. Smith responded to Board questions regarding the lot size of the panhandle section and if there was room for a midgrade restaurant.

Mayor Sindelar closed the public comment portion of the public hearing at 9:00 PM.

Motion by Trustee Conyac, **second** by Trustee Sharp, to Approve **Ordinance 1007**: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, FROM REGIONAL COMMERCIAL(RC) AND RESIDENTIAL-C (R-C) ZONING DISTRICTS TO REGIONAL COMMERCIAL (RC) AND RESIDENTIAL-B (R-B) ZONING DISTRICTS

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

- b. **PUBLIC HEARING: Resolution 22-43:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, RATIFYING AND APPROVING THE PLANNING AND ZONING COMMISSION'S ADOPTION OF THE TOWN OF FIRESTONE HISTORIC FIRESTONE NEIGHBORHOOD PLAN

Mayor Sindelar opened the public hearing at 9:01 PM.

Michelle Dollmaier, the Senior Planner, presented to the Board of Trustees.

Mayor Sindelar closed the public comment portion of the public hearing at 9:29 PM.

Motion by Trustee Meiring, **second** by Trustee Whelan, to Approve **Resolution 22-43**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, RATIFYING AND APPROVING THE PLANNING AND ZONING COMMISSION'S ADOPTION OF THE TOWN OF FIRESTONE HISTORIC FIRESTONE NEIGHBORHOOD PLAN

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez,

Trustee Doherty, Trustee Sharp
No: None
Abstain: None
Motion carried.

8. Discussion/Action

- a. **Resolution 22-44:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND BRANNAN SAND AND GRAVEL COMPANY FOR THE MILL AND OVERLAY PAVING PROJECT FOR PORTIONS OF FIRESTONE AND COLORADO BOULEVARDS

Motion by Trustee Conyac, **second** by Trustee Doherty, to Approve **Resolution 22-44:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND BRANNAN SAND AND GRAVEL COMPANY FOR THE MILL AND OVERLAY PAVING PROJECT FOR PORTIONS OF FIRESTONE AND COLORADO BOULEVARDS

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

- b. **Resolution 22-45:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE FOURTH AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Sharp, to Approve **Resolution 22-45:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE FOURTH AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

9. Public Comment *(maximum time permitted for all Public Comment is 30 minutes)

There was no one present that wished to give public comment.

10. Reports

a. Staff

AJ Krieger, Town Manager, reported on the next Finance Committee Work Session, April 20, 2022, to cover the Water Action Plan. Mr. Krieger extended an invite to the Board.

10.a.i. February Monthly Financial Report

ii Public Works Equipment Update

b. Mayor

c. Trustees

Trustee Conyac reported on three ribbon cuttings; Public Works expansion, St. Vrain Water Treatment Plant, and Neighbors Point Park.

Trustee Meiring reported on meeting with lobby team; reported on bills of interest.

11. Adjournment

Motion by Trustee Whelan, **second** by Trustee Conyac, to Adjourn at 9:56 PM, All in Favor, **Motion carried.**

Introduced and Approved the 27th of April, 2022.

TOWN OF FIRESTONE, COLORADO

ATTEST

Bobbi Sindelar, Mayor

Jessica Koenig, Town Clerk

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 10.a

Consent Agenda

Meeting Date: April 27, 2022

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Ordinance 1010: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ENACTING SECTION 8.06.55 OF THE FIRESTONE MUNICIPAL CODE PERTAINING TO NUISANCES

SUMMARY

Ordinance 1010 amends the Firestone Municipal Code to address using air compression brakes when traveling through the Town of Firestone.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of Ordinance No. 1010.

ALTERNATIVES

Provide staff with further direction.

ATTACHMENTS

1. Nuisance Section 8.06.055 Amend Ord

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 1010

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ENACTING SECTION 8.06.55 OF THE FIRESTONE MUNICIPAL CODE PERTAINING TO NUISANCES

WHEREAS, the Town of Firestone is bisected by a state highway and contains numerous county roads upon which results in a constant flow of commercial truck traffic throughout portions of the Town; and

WHEREAS, the volume of commercial truck traffic is further heightened by the Town's proximity to numerous gravel pits; and

WHEREAS, the operators of certain commercial trucks routinely employ air compression brakes when traveling through the Town; and

WHEREAS, air compression brakes are but a secondary braking system, with its principal benefit being reduced operational and maintenance costs as it reduces wear and tear on a vehicle's primary brakes; and

WHEREAS, the use of such brakes creates noise, the volume, intensity, and staccato nature of which is disruptive and disturbs the wellbeing of citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. Section 8.06.055, "Use of air compression brakes prohibited," of the Firestone Municipal Code is enacted to provide:

It is unlawful and constitutes a nuisance for the operator of a motor vehicle equipped with an engine compression brake device to use such device while operating the vehicle within the town. For the purposes of this section an engine compression brake device, also known as "brake retarder," is any device which, when activated, impedes the vehicle's forward motion through compression of air in the engine's cylinder to provide braking power.

Section 2. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Violations of this ordinance shall be punishable in accordance with Section 1.16.010 of the Municipal Code of the Town of Firestone, Colorado.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN
FULL this ___th day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, CMC, Town Clerk

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 11.a

Discussion/Action

Meeting Date: April 27, 2022

Initiated By: Paula Mehle

Dept: Economic Development

AGENDA TITLE

Resolution 22-49: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE APPROVING THE WATER CREDIT AGREEMENT BY AND BETWEEN, THE TOWN OF FIRESTONE AND TSG DEL CAMINO JUNCTION, LLC

SUMMARY

The proposed agreement is between the Town of Firestone, Colorado and TSG Del Camino Junction, LLC. Del Camino Junction, LLC is under contract to purchase approximately 33 acres of land along the north side of Firestone Boulevard, east of E. I-25 Frontage Road to Weld County Road 9 3/4, and intends to renovate and redevelop the Property by causing the construction and operation of a commercial shopping center development consisting of approximately 125,000 square foot and 12 or more out parcels of retail, restaurant and service operations. The agreement intends to provide certain incentives to the Developer in order to facilitate the redevelopment of the property with the expectation that the Town's involvement will encourage and accelerate the timing of development, thus providing substantial direct and indirect benefits to the Town, its citizens, and the surrounding area in numerous ways.

HISTORY AND PREVIOUS BOARD ACTION

The Town Board of Trustees adopted Resolution 13-32 on June 12, 2013, approving the Northern Firestone Urban Renewal Plan (as amended, the "Plan"), which guides the elimination and prevention of conditions of blight in the area described in the Plan (the "Plan Area").

RECOMMENDATION

Approve Resolution 22-49 authorizing the execution of the agreement between the Town of Firestone and TSG Del Camino Junction, LLC.

ALTERNATIVES

ATTACHMENTS

1. Resolution 2022-49
2. TSG - Firestone Water Credit Agreement

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 2022-49

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE APPROVING THE WATER CREDIT AGREEMENT BY AND BETWEEN, THE TOWN OF FIRESTONE AND TSG DEL CAMINO JUNCTION, LLC

WHEREAS, TSG Del Camino Junction, LLC, a Missouri limited liability company (“TSG”) is the contract purchaser of certain real property within the Town of Firestone (“Town”) located on the north side of Firestone Boulevard, east of East I-25 Frontage Road (“Property”); and

WHEREAS, TSG intends to renovate and redevelop the Property by causing the construction and operation of a commercial shopping center consisting of an approximately 125,000 square feet plus 12 out parcels, which will include retail, restaurant and service operations; and

WHEREAS, the Town acting by and through its Water Activity Enterprise intends to provide TSG certain incentives in the form of water in order to facilitate the redevelopment of the Property with the expectation that the Town’s involvement will encourage and accelerate the timing of the redevelopment, thus providing substantial direct and indirect benefits to the Town, its citizens, and the surrounding area; and

WHEREAS, to accomplish such goals the Town and TSG desire to enter into a Water Credit Agreement which specifies the incentives and financial assistance provided by the Town to TSG.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE AS FOLLOWS:

The Water Credit Agreement between the Town of Firestone acting by and through its Water Activity Enterprise and TSG Del Camino Junction LLC is approved in substantially the same form as the copy attached hereto and made a part of this Resolution and the Mayor is authorized to execute the Agreement on behalf of the Town and any related documents or certificates necessary in connection with transactions contemplated by the Agreement, subject to technical additions and deletions as Water Counsel determine are necessary to protect the interests of the Town or to effectuate the purposes of the Agreement.

INTRODUCED, READ, and ADOPTED this ____ day of April, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

EXHIBIT A

WATER CREDIT AGREEMENT

[see attached - 6 pages]

WATER CREDIT AGREEMENT

This Water Credit Agreement (“Agreement”), made and entered into this ____ day of _____, 2022 (“Effective Date”), by and between the Town of Firestone acting by and through its Water Activity Enterprise (“Firestone”) and TSG Del Camino Junction, LLC , a Missouri Limited Liability Company (“TSG”).

RECITALS

WHEREAS, pursuant to the Firestone Municipal Code (the “Code”), a landowner seeking to develop property for commercial, industrial or other non-residential uses must dedicate “water rights” at or prior to Firestone’s approval of a final development plan (FDP); and

WHEREAS, TSG is the owner or will become the owner of certain lands within the Town of Firestone, as more fully described and depicted on Exhibit A attached hereto and incorporated herein by reference (the “Property” or “Del Camino Junction”), which it is seeking to develop for commercial and other non-residential uses; and

WHEREAS, TSG requires treated water service to the Property for commercial lots and Tract A, (as depicted on Exhibit A) which commercial lots will be operated and occupied by TSG and/or its lessees, operators, affiliates, successors and assigns; and

WHEREAS, TSG and the Firestone Urban Renewal Authority have entered into a Redevelopment and Reimbursement Agreement, dated March 16, 2022 (the “Reimbursement Agreement”); and

WHEREAS, Firestone owns certain water rights, which it has offered to TSG in the form of Water Credits to assist TSG in achieving its water dedication requirements pursuant to the Code; and

WHEREAS, TSG desires to acquire the Water Credits from Firestone as set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual agreement, and promises set forth herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by both Parties, the Parties agree as follows:

AGREEMENT

1. Recitals. The foregoing Recitals are incorporated herein as if fully set forth.

2. Water Credits. Firestone shall reserve up to fifty-four (54) Water Credits as necessary to fully develop the Property for commercial and other non-residential uses. Up to 40 Water Credits shall be available for out parcels on the Property along Firestone Blvd within the area currently depicted as lots 1-12 in Exhibit A (which lot lines and number of parcels are subject to change without need for modification or amendment to this Agreement), and for landscape irrigation on the Property (including "Tract A"). Additionally, up to 14 Water Credits shall be available for and limited to use on the 12-acre "anchor" parcel depicted on Exhibit A as Lot 13. Each "Water Credit" shall be equivalent to one acre-foot of water per year, for purposes of meeting the dedication requirements of the Code. The Water Credits are derived from certain water or water rights which are currently owned by Firestone. The Water Credits shall be used solely for development of Del Camino Junction and entitlement to the Water Credits shall run with the Property, except as limited by the terms of this Agreement. If the water dedication requirement on the Property exceeds fifty-four (54) acre-feet, TSG or its successors or assigns, shall be required to acquire and dedicate additional water rights to Firestone to meet any dedication requirements on the Property in excess of the fifty-four (54) acre feet.

3. Redemption of Water Credits and Water Delivery. The pool of Water Credits shall be available to TSG to meet Firestone's water dedication requirements for purposes of approval of final development plans on the Property provided that TSG has satisfied all obligations under this Agreement and is in compliance with the provisions of the Reimbursement Agreement at any time it dedicates one or more Water Credits. The dedication of the Water Credits necessary for the approval of any final development plan shall be noted on any final development plan(s) issued for any part of the Property and each final development plan shall note the remaining Water Credits available from the pool of Water Credits available to TSG.

4. Term. Subject to the additional limitations in this Agreement, including paragraph 10 below, the pool of 40 Water Credits shall expire at the earlier of: the issuance of final development plans for all out parcels within the area currently depicted as lots 1-12 on Exhibit A, 10 years after the date on which a deed to the Property in the name of TSG Del Camino Junction, LLC is recorded in the Weld County Clerk and Recorder's Office or October 24, 2032. The 14 Water Credits which are attributable to the "anchor" parcel, shall expire at the earlier of: the issuance of a final development plan for the "anchor" parcel depicted on Exhibit A as Lot 13, 20 years after the date on which a deed to the Property in the name of TSG Del Camino Junction LLC is recorded in the Weld County Clerk and Recorder's Office or October 24, 2042.

5. Fees.

A. TSG, its successors or assigns shall dedicate sufficient Water Credits to satisfy Firestone's then applicable water dedication requirement at or before approval of a final

development plan for each of the parcels. No final development plan shall be issued by Firestone until TSG complies with this requirement of the Agreement.

B. TSG or the then current owner or lessee of the particular parcel receiving a Water Tap shall pay all costs associated with installation of Water Taps as required by Firestone, including, without limitation, any standard and customary Plant Investment Fee, Tap fee, installation fees and meter fees in effect at the time of the Effective Date of this Agreement.

6. Water Tap Installation. TSG or the then current owner or lessee of the particular parcel receiving a Water Tap shall install lines for treated water service to the parcel. TSG and the then current owner or lessee of the parcel shall provide development plans for the Property to Firestone for its review and approval before installation of any new Water Taps, to ensure compliance with the applicable standards set forth in the Firestone Municipal Code and internal town policies.

7. Costs and Fees Non-Refundable. All costs, fees and charges remitted to Firestone by TSG in connection with Water Credit dedication are non-refundable.

8. No Vested Interest. Firestone grants no ownership in its water, water rights or treated water system to TSG by this Agreement, and TSG acknowledges that no such ownership interest shall vest, in law or equity, as a result of this Agreement.

9. Assignment. This Agreement and the Water Credits available to TSG pursuant to this Agreement shall not be assigned without written approval from Firestone. TSG shall seek Firestone's approval to assign Water Credits to any of the parcels which TSG intends to sell, convey or otherwise voluntarily transfer. Any Water Credits which were not previously dedicated, shall automatically expire upon the sale, conveyance or transfer of the Property by TSG, including through foreclosure, which did not obtain written approval by Firestone for an associated assignment of Water Credits. For sales by TSG of individual parcels, Firestone shall issue written approval for the use and assignment of the Water Credits available to TSG under this Agreement as part of the final development plan approval process, provided that 1) the stated use of the parcel subject to the proposed sale complies with the restrictions on non-Retail uses described in the Reimbursement Agreement (Section 5.F), and 2) the assignment of Water Credits pursuant to the sale is determined by Firestone staff to be sufficient for the purchaser to meet the water dedication requirements of the final development plan for the stated use of the parcel.

10. Town of Firestone Rules and Regulations. TSG shall comply with and construct all improvements in accordance with all policies, rules, regulations and ordinances of Firestone applicable TSG's water dedication obligations. Nothing in this Agreement should be construed as a waiver, limitation, precedent, or supersession by Firestone of any such policy, rule, regulation or ordinance.

11. Binding Agreement. This Agreement shall bind and benefit Firestone and TSG, as well as their respective representatives, agents, and permissible lessees, operators, affiliates, successors, and assigns.

12. Notice. Firestone and TSG shall give any notice required under this Agreement using the contact information listed below. Such notice is adequate if (a) hand-delivered, b(b) provided by certified mail, return receipt requested, or (c) provided via email. Firestone and TSG shall promptly notify the other party if the appropriate contact information for notice changes.

For Firestone: Town of Firestone
Attn: AJ Krieger, Town Manager
9950 Park Avenue
Firestone, CO 80520
AKrieger@firestoneco.gov

With a copy to: Wes Knoll
Lawrence Custer Grasmick Jones & Donovan, LLP
5245 Ronald Reagan Blvd., Suite 1
Johnstown, CO 80534
Phone: (970) 622-8181
wes@lcwaterlaw.com

For TSG: TSG Del Camino Junction, LLC
Attn: Michael H. Staenberg
2127 Innerbelt Business Center Drive, Suite 200
St. Louis, MO 63114
mstaenberg@tsgproperties.com

With a copy to: Carolyn Burr
Welborn Sullivan Meck & Tooley, P.C.
1401 Lawrence Street, Suite 1800
Denver, CO 80202
cburr@wsmtlaw.com

13. Condition Precedent. This Agreement is conditioned on TSG acquiring the Property within twelve (12) months of the Effective Date.

14. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

15. Jurisdiction and Venue. This Agreement shall be governed, and its terms construed under the laws of the State of Colorado and venue shall be in the Weld County District Court.

16. Counterparts. The Parties may execute this Agreement in counterparts, each of which and the combination of which when signed by both Firestone and the TSG may be deemed original and together constitute a single contract.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first above written

TOWN OF FIRESTONE, acting
by and through its Water Activity
Enterprise

TSG DEL CAMINO JUNCTION, LLC

By:

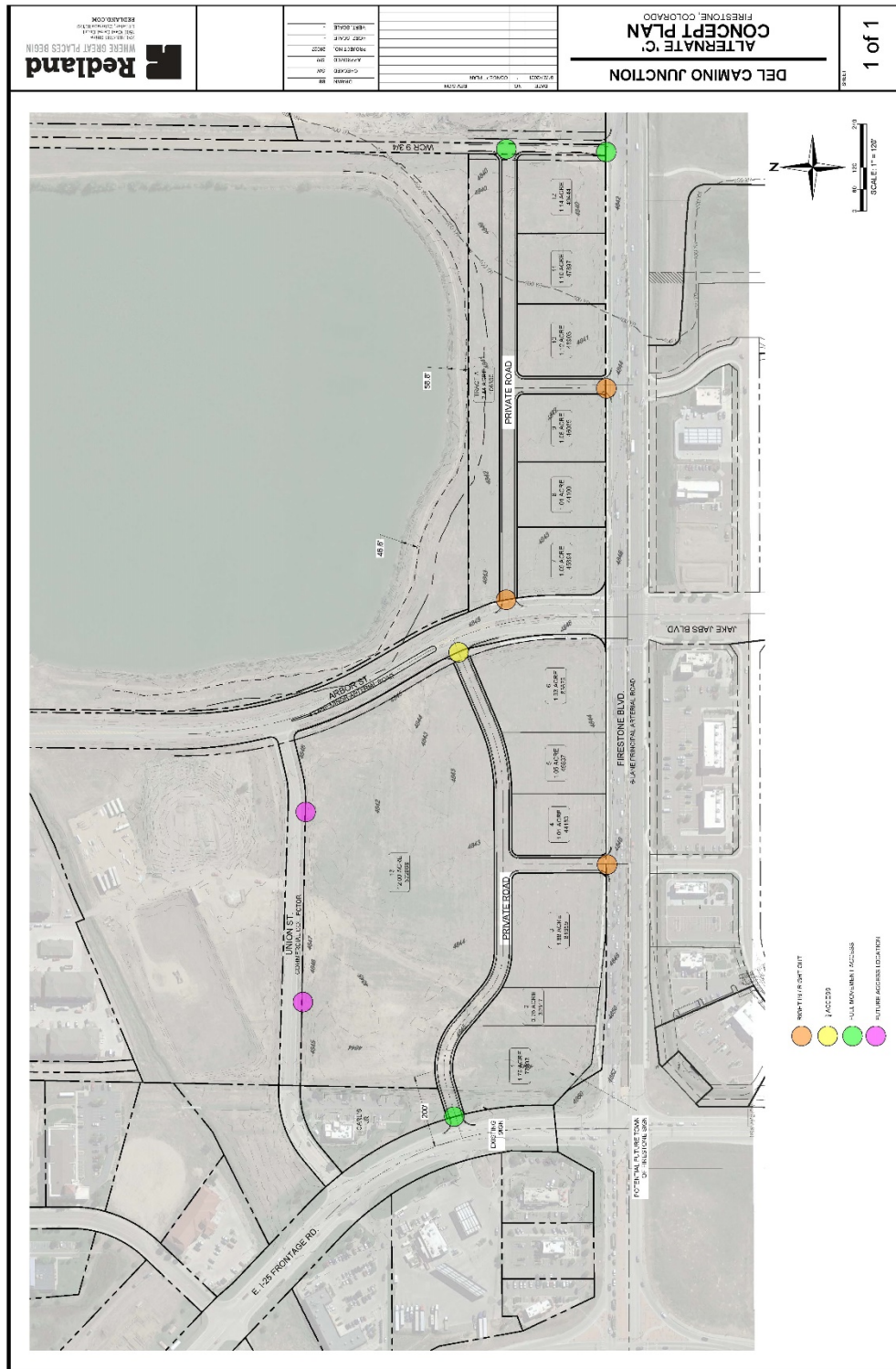
Name: Drew Alan Peterson

Title: Mayor

By:

Name: Michael H. Staenberg

Title: Manager



AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 11.b

Discussion/Action

Meeting Date: April 27, 2022

Initiated By: Bonijean Melick

Dept: Police

AGENDA TITLE

Resolution 22-47: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR THE ESTABLISHMENT OF AN EMERGENCY MANAGEMENT SERVICE AREA, AN EMERGENCY MANAGEMENT COORDINATOR, AND FOR THE SHARING OF ASSOCIATED COSTS, BETWEEN THE TOWN OF FIRESTONE, TOWN OF FREDERICK, CITY OF DAcono, AND THE FREDERICK-FIRESTONE FIRE PROTECTION DISTRICT

SUMMARY

Resolution 22-47 approves an amended and restated intergovernmental agreement to establish an emergency management service area, emergency management coordinator, and sharing associated costs with the City of Dacono, Town of Frederick, and Frederick-Firestone Fire Protection District.

Additionally, the IGA establishes a service area, outlines the hiring of an Emergency Management Coordinator, establishes an advisory board, and outlines cost-sharing.

If approved, after December 31, 2022, the agreement will automatically renew for up to ten (10) successive one-year terms.

HISTORY AND PREVIOUS BOARD ACTION

On January 27, 2021, the Board of Trustees approved Resolution 21-21 approving the 2020 Carbon Valley Emergency Operations Plan with the City of Dacono, Town of Frederick, and Frederick-Firestone Fire Protection District.

On July 10, 2008, the Board of Trustees approved Resolutions 08-58 approving the Carbon Valley Emergency Operations Plan.

RECOMMENDATION

Approval of Resolution 22-47

ALTERNATIVES

Provide staff with additional direction.

ATTACHMENTS

1. 22-47 Emergency Management Services IGA Res
2. Carbon Valley EMA IGA (FFFPD Signed)

FINANCIAL CONSIDERATIONS

Each of the parties shall contribute equally to the EMC's compensation, benefits, and other costs incidental to the EMC's employment.

FFFPD will invoice each party the first quarter of each calendar year for the party's Contribution.

RESOLUTION NO. 22-47

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING AN AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT FOR THE ESTABLISHMENT OF AN
EMERGENCY MANAGEMENT SERVICE AREA, AN EMERGENCY MANAGEMENT
COORDINATOR, AND FOR THE SHARING OF ASSOCIATED COSTS, BETWEEN
THE TOWN OF FIRESTONE, TOWN OF FREDERICK, CITY OF DAcono, AND
THE FREDERICK-FIRESTONE FIRE PROTECTION DISTRICT**

WHEREAS, the City of Dacono ("Dacono"), Town of Firestone ("Firestone"), Town of Frederick ("Frederick"), Mountain View Fire Protection District ("MVFPD") and Frederick-Firestone Fire Protection District ("FFFPD") are parties to an Intergovernmental Agreement, dated September 10, 2018, ("Original Agreement"), which established an Emergency Management Service Area, an Emergency Management Coordinator position hired by FFFPD, and provided for the sharing of associated costs among the parties; and

WHEREAS, MVFPD provided the parties written notice that it has elected not to continue its participation in the Original Agreement, effective December 31, 2021; and

WHEREAS, Dacono, Firestone, Frederick, and FFFPD desire to enter into an Amended and Restated Intergovernmental Agreement to both document MVFPD's withdrawal and continue their commitment to maintaining an Emergency Management Service Area and Coordinator; and

WHEREAS, the Parties thus find that it is in their best interests and promotes the public health safety and welfare of all residents within their jurisdictions to establish and maintain an Emergency Management Service Area and retain an Emergency Management Coordinator to ensure the parties' compliance with state and federal laws regarding disaster preparedness and coordination of response, including the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

The Amended and Restated Intergovernmental Agreement for Establishment of an Emergency Management Service Area, an Emergency Management Coordinator, and for the sharing of associated costs, is approved in substantially the same form as the copy attached hereto and made a part of this resolution, and the Mayor is authorized to execute the Intergovernmental Agreement on behalf of the Town.

INTRODUCED, READ, AND ADOPTED this ___ day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR
ESTABLISHMENT OF AN EMERGENCY MANAGEMENT SERVICE AREA, AN
EMERGENCY MANAGEMENT COORDINATOR, AND FOR SHARING
ASSOCIATED COSTS**

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (“Agreement”), effective the 1st day of January 2022 (“Effective Date”), is made and entered into by and among the City of Dacono (“Dacono”), Town of Firestone (“Firestone”), Town of Frederick (“Frederick”), and Frederick-Firestone Fire Protection District (“FFFPD”) (each individually referred to as a “Party” and jointly referred to as the “Parties”).

WHEREAS, pursuant to C.R.S. § 24-33.5-707(1), each political subdivision of the state shall be within the jurisdiction of, and served by, a local or interjurisdictional agency responsible for disaster preparedness and coordination of response; and

WHEREAS, Dacono, Firestone, Frederick, FFFPD, and the Mountain View Fire Protection District (“MVFPD”) are parties to that certain Intergovernmental Agreement, dated September 10, 2018 (the “Original Agreement”), which Original Agreement established an Emergency Management Service Area, an Emergency Management Coordinator position hired by FFFPD, and provided for the sharing of associated costs among the Parties; and

WHEREAS, MVFPD has provided the Parties with written notice, pursuant to and in compliance with Section 6 of the Original Agreement, that MVFPD has elected not to continue its participation in the Original Agreement, effective December 31, 2021; and

WHEREAS, Dacono, Firestone, Frederick, and FFFPD desire to enter into this Amended and Restated Agreement to reflect MVFPD’s nonparticipation; and

WHEREAS, the Parties agree that it is in their best interests, and will promote the public safety and welfare of the current and future residents and property owners within their mutual boundaries, to provide for FFFPD to serve as the local agency responsible for disaster preparedness and coordination of response within the Service Area (defined below); and

WHEREAS, the Parties desire that FFFPD hire an Emergency Management Coordinator to ensure the Parties’ compliance with state and federal laws regarding disaster preparedness and coordination of response, including the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, and to have all the powers and duties set forth herein; and

WHEREAS, the Parties further desire to set forth their agreement as to the sharing of costs in connection with disaster preparedness and coordination of response; and

WHEREAS, the Parties further desire that the terms and conditions of this Amended and Restated Agreement shall supersede and replace the terms and conditions of the Original Agreement; and

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to C.R.S. § 29-1-201, *et seq.*

NOW, THEREFORE, the Parties covenant and agree as follows:

1. **Service Area.** There is hereby established the *Carbon Valley Emergency Management Service Area* (the “Service Area”). The Service Area shall include each of the municipal Parties’ corporate boundaries, including any properties later annexed, and the jurisdictional boundaries of FFFPD, including any properties later included into FFFPD, and excluding any properties later excluded from FFFPD’s jurisdiction, except that the Service Area shall not include any unincorporated county land. The Service Area also shall not include the municipal boundaries of the Towns of Erie and Mead.
2. **Hiring of Emergency Management Coordinator.** The Advisory Board (defined in Section 3, below) shall develop a job description (“Job Description”) for an Emergency Management Coordinator (“EMC”), who shall be responsible for coordinating with the Advisory Board on matters concerning disaster preparedness and emergency response with respect to the Service Area. After the Job Description has been finalized by the Advisory Board, and approved by FFFPD’s Board of Directors, FFFPD shall advertise and hire for the position of EMC, who shall have all the powers and perform all the duties of such position as set forth in the Job Description. The EMC’s salary shall be as set forth in the Job Description, and shall be paid by FFFPD, subject to partial reimbursement by the other Parties as provided in Section 4. The EMC shall be an employee of FFFPD, and shall be subject to all FFFPD’s rules, policies and procedures.
3. **Advisory Board.** There is hereby established the Carbon Valley Emergency Management Advisory Board consisting of the Police Chief of the City of Dacono, the Police Chief of the Town of Firestone, the Police Chief of the Town of Frederick, and the Fire Chief of FFFPD (collectively, the “Advisory Board”, and each a “Party Representative”). The Advisory Board shall provide input and feedback to the EMC on matters concerning disaster preparedness and coordination of response; provided that, the Advisory Board shall not oversee the actual work or instruct the EMC as to how the EMC’s job will be performed. The Advisory Board may meet periodically upon request of the FFFPD Fire Chief or otherwise to provide input and feedback on the EMC’s job performance, evaluations, compensation and/or Job Description changes.
4. **Cost Sharing, Non-Appropriation.** Each of the Parties shall contribute equally to the EMC’s compensation, benefits, and other costs incidental to the EMC’s employment (“Contribution”). FFFPD shall invoice each Party the first quarter of each calendar year for the Party’s Contribution. Such invoices shall be paid within thirty (30) days of receipt thereof. Any invoices not paid within thirty (30) days shall accrue interest at the rate of 8% per annum until paid in full. The foregoing notwithstanding, all financial obligations of the Parties under this Agreement are contingent on funds being budgeted, appropriated, or otherwise made available by the governing body of the respective Party. In the event of a non-appropriation by the governing body of a Party, such Party’s participation in this Agreement shall terminate at the end of the then-current fiscal year, and the remaining Parties’ Contributions will be increased in

proportion to the total number of Parties to the Agreement, such that each remaining Party bears an equal share of the costs; except that, this Agreement shall terminate at the end of the then-current fiscal year in the event of a non-appropriation by the FFFPD Board of Directors. Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of any of the Parties within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. In the event of a Party's non-appropriation, that Party shall only be financial liable for Contributions for which it has previously appropriated funds.

5. **Additional Parties.** Other municipalities and fire protection districts may become a party to this Agreement by written amendment signed by all of the then-Parties; provided that, the governing body of the joining party must first adopt the Plan (defined in Section 9, below). Upon the joining of an additional party(ies), each Party's Contribution shall be reduced in proportion to the total number of parties to the Agreement, such that each Party, including the joining Party(ies), bears an equal share of the Contribution. Each joining Party shall have a Party Representative on the Advisory Board; provided that, such Party Representative shall be either a fire or police chief.

6. **Term.** This Agreement shall commence on the Effective Date and shall continue until December 31, 2022. Thereafter, the Agreement shall automatically renew for up to ten (10) successive one-year terms; provided, however, that a Party may elect not to renew its participation in the Agreement by providing written notice of withdrawal to each of the other Parties, through each respective Party Representative, at least 180 days in advance of the end of the then-current term. Upon withdrawal by any Party in accordance with this Section, the remaining Parties' Contributions will be increased in proportion to the total number of remaining Parties to the Agreement, such that each Party bears an equal share of the costs; except that, this Agreement shall immediately terminate without further notice upon withdrawal by FFFPD. In addition, this Agreement shall terminate as to a Party in the event of non-appropriation by that Party pursuant to Section 4, above.

7. **Advisory Board Input.** The Parties agree that the development and implementation of any policies by the EMC or the FFFPD Board regarding disaster preparedness and emergency response shall be undertaken with input from the Advisory Board.

8. **Contracts.** FFFPD agrees that each Party shall be given the opportunity, through notice to each Party Representative, to join any contract proposed for adoption by the FFFPD Board regarding coordinated disaster preparedness and emergency response within the Service Area or any portion thereof.

9. **Emergency Management Plan.** One of the EMC's job duties will be to maintain the Carbon Valley Emergency Operations Plan (the "Plan") in accordance with federal and state requirements. It is the intent of the Parties that the Plan be adopted by the governing body of each Party to this Agreement. If the governing body of a Party, or any joining Party, has not yet adopted the Plan, the Party may do so by reference to the Plan as adopted by FFFPD in accordance with applicable state law. The Plan may be amended if approved by a majority of the members of the Advisory Board. Each Plan amendment shall be adopted by the FFFPD Board,

and then adopted by reference to the Plan as amended and adopted by FFFPD by the governing bodies of the other Parties in accordance with applicable state law.

10. **Employee Liability.** Nothing in this Agreement is intended to or shall be construed to create an employer-employee relationship between the EMC and any of the Parties except FFFPD. Any employment liability arising out of or connected with FFFPD's employment of the EMC, including, without limitation, liability for workers' compensation benefits, unemployment benefits, or failure to withhold state or federal income taxes, shall be borne solely by FFFPD.

11. **Records.** FFFPD shall maintain in its records system, in accordance with FFFPD's applicable records retention policies, records created in whole or in part by the EMC relating to emergency management, disaster preparedness and coordination of response ("EMC Records"). EMC Records does not include any personnel records related to FFFPD's employment of the EMC, except to the extent such records would otherwise constitute public records under the Colorado Open Records Act, CRS 24-72-200.1, *et. seq.* For so long as it is a party to this Agreement, a Party shall have reasonable access to the EMC Records during normal business hours, which access shall be granted by FFFPD at no charge. A former Party to this Agreement shall be entitled to EMC Records in accordance with the Colorado Open Records Act.

12. **Training Provided by EMC.** One of the EMC's job duties, as set forth in the Job Description, is to conduct emergency management training and education programs for employees of the Parties. The members of the Advisory Board and the EMC shall coordinate to schedule such programs.

13. **Confidentiality.** Each Party acknowledges and agrees that during the term of this Agreement it may be furnished with or otherwise have access to confidential information of another Party. The Party that has received confidential information (the "Receiving Party"), in fulfilling its obligations under this Section, shall exercise the same degree of care and protection with respect to the confidential information of the Party that has disclosed confidential information to the Receiving Party (the "Disclosing Party") that it exercises with respect to its own confidential information, but in no event shall the Receiving Party exercise less than a reasonable standard of care. The Receiving Party shall only use, access and disclose confidential information as necessary to fulfill its obligations or exercise its rights under this Agreement; except that, disclosure is permitted if the disclosure is required under the Colorado Open Records Act, or pursuant to a valid and effective subpoena or order issued by a court of law.

14. **Periodic Meetings.** The EMC and Advisory Board shall meet at the FFFPD Administration Building, located at 8426 Kosmerl Place, Frederick, CO, or at another location agreed to by the Party Representatives, on a periodic or as needed basis. At each meeting, the EMC shall update the Advisory Board on disaster preparedness and coordination of response efforts in the previous quarter, and expectations for disaster preparedness and coordination of response efforts in the upcoming quarter.

15. **Services Specifically Not Included.** Nothing in this Agreement shall obligate any Party to dispatch personnel, equipment, or other assistance, or otherwise respond to an emergency or disaster situation within the Service Area. The respective interjurisdictional incident response

obligations of the Parties, if any, are as set forth in the various mutual aid agreements between or among the Parties.

16. **Third-Party Liability.** The EMC will be an employee of FFFPD and answer to the FFFPD Fire Chief. As such, Dacono, Firestone, and Frederick (and any joining parties) will have no direct control or supervision over the day-to-day operations or performance of the EMC's powers and duties. Dacono, Firestone, and Frederick (and any joining parties) shall not be responsible for any liability for any injury, loss, or damage caused by the negligent act, omission, or other fault of the EMC or FFFPD. FFFPD's obligation under this Section shall not be construed to extend to any injury, loss, or damage which is caused by the negligent act, omission, or other fault of any Party other than FFFPD.

17. **Governmental Immunity.** The Parties are "public entities" within the meaning of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended (the "Act"), and the Parties understand and agree that each of the Parties is relying on and does 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 Act, or otherwise available to the Parties, their officers, or their employees.

18. **Entire Agreement; Amendment.** This Agreement represents the entire Agreement among the Parties and there are no oral or collateral agreements or understandings. This Agreement shall supersede and replace that certain Intergovernmental Agreement, dated September 10, 2018, by and among the Parties and MVFPD. This Agreement may be amended by the Parties at any time during its term, provided that any such amendment is agreed to in writing and signed by the representatives of the Parties executing this Agreement as set forth in the signature portion below. Course of performance, no matter how long, shall not constitute an amendment to this Agreement.

19. **Severability.** Should any provision of this Agreement be held invalid or unenforceable, then the remaining provisions shall remain in full force and effect as though the invalid provision were not included; provided, however, that should the invalidity or unenforceability go to the essence of the Agreement, then any Party that would have received the benefit of the invalid or unenforceable provision shall have the option to terminate this Agreement.

20. **Governing Law and Venue.** This Agreement shall be deemed entered into in Weld County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the District Court of Weld County of the State of Colorado, and in no other court.

21. **No Third-Party Beneficiaries.** It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other person or entity not included in this Agreement. It is the express intention of the Parties that any entity other than the Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

22. **Assignment.** No Party shall assign or delegate this Agreement or any portion thereof, or any monies due or that become due hereunder without the express written consent of each of the other then-Parties to this Agreement. Any assignment or delegation in violation of this Section shall be void.

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

[Signatures on following pages]

CITY OF DAcono, COLORADO

By: _____
Adam Morehead, Mayor

ATTEST:

Valerie Taylor, City Clerk

TOWN OF FIRESTONE, COLORADO

By: _____
Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

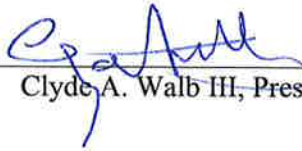
TOWN OF FREDERICK, COLORADO

By: _____
Tracie Crites, Mayor

ATTEST:

Meghan C. Martinez, CMC, Town Clerk

FREDERICK-FIRESTONE FIRE PROTECTION
DISTRICT

By: 
Clyde A. Walb III, President

ATTEST:


Christopher R. Vigil, Secretary



**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 11.c

Discussion/Action

Meeting Date: April 27, 2022

Initiated By: Bonijean Melick

Dept: Police

AGENDA TITLE

Resolution 22-48: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE, TOWN OF FREDERICK, CITY OF DAcono, AND NORTH RANGE BEHAVIORAL HEALTH TO ESTABLISH AND OPERATE A CO-RESPONDER PROGRAM

SUMMARY

A Resolution of the Board of Trustees of the Town of Firestone, to approve an agreement between the Town of Firestone, Town of Frederick, City of Dacono and North Range Behavior Health to establish and operate a Co-Responder Program. The program will provide law enforcement personnel with assistance from behavioral health specialists who will respond to calls with a behavioral health component, such as those involving mental health, substance abuse, death or serious injury of a family member or other crises.

HISTORY AND PREVIOUS BOARD ACTION

No previous history or board action.

RECOMMENDATION

Approval of Resolution 22-48.

ALTERNATIVES

Provide staff with additional direction.

ATTACHMENTS

1. 22-48 Co-Responder Program Resolution
2. CVM Co-Responder MOU with atty review Final (clean -- 02-03-2022)
3. CV&M exhibit A

FINANCIAL CONSIDERATIONS

The goal of the parties is to deescalate crisis situations, while also providing involved individuals outreach, education, referral and screening services. The program will be of benefit to the community and enhance public safety and welfare.

RESOLUTION NO. 22-48

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF
FIRESTONE, TOWN OF FREDERICK, CITY OF DAcono, AND NORTH RANGE
BEHAVIORAL HEALTH TO ESTABLISH AND OPERATE A CO-RESPONDER
PROGRAM**

WHEREAS, the Town of Firestone, Town of Frederick, the City of Dacono, and North Range Behavioral Health collectively (“Parties”) desire to cooperate to establish and operate a Co-Responder Program (“Program”); and

WHEREAS, the Program provides the municipalities’ law enforcement personnel the assistance of behavioral health specialists who will respond to calls with a behavioral health component such as those involving mental health, substance abuse, death or serious injury of a family member or other crisis; and

WHEREAS, the goal of the Parties is to de-escalate crisis situations while also providing the involved individuals’ outreach, education, referral, and screening services; and

WHEREAS, the Board of Trustees finds that the Program will be of benefit to the community and enhance public safety and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

The Agreement between the Town of Firestone, Town of Frederick, the City of Dacono, and North Range Behavioral Health to establish and operate a Co-Responder Program is approved in substantially the same form as the copy attached hereto and made a part of this resolution, and the Mayor is authorized to execute the Agreement on behalf of the Town.

INTRODUCED, READ, AND ADOPTED this __ day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, CMC, Town Clerk

William P. Hayashi, Town Attorney

**An Agreement
Between The Town of Firestone, Town of Frederick, City of Dacono and Town of Mead
(collectively “Partner Agencies”) and North Range Behavioral Health (“NRBH”) To
Establish and Operate a Co-Responder Program**

This Agreement establishes an arrangement between the Partnering Agencies and NRBH (collectively “Parties”) to establish and operate a Co-Responder Program to provide a coordinated approach among the Parties for behavioral health intervention for 911 calls thus allowing for reduction in: emergency room admissions, jail admissions, costs for healthcare, duplication of services. This Agreement provides for cost sharing, partnership in data collection / analysis, and resource referrals & connections. The Parties mutually desire to maintain compliance with the Health Insurance Portability and Accountability Act (“HIPPA”) for the purpose of safeguarding the privacy of Protected Health Information (PHI) they may share and so that the Parties can share information for joint activities in the Co-Responder Program.

Purpose

This Agreement outlines and clarifies the mutual responsibilities of the parties.

The Parties activities include the following:

- Primary response to 911 calls with a behavioral health component (when riding with law enforcement).
- Secondary response to 911 calls with a behavioral health component (either at the request of an officer or by self-deploying based on information received monitoring the CAD).
- Outreach, education and follow-up contacts to those identified by law enforcement officers as frequent utilizers of the 911 system for behavioral health needs.
- Behavioral Health screening of individual or group contacts for needs, resources or education.
- Referral to care managers, primary care & alternative destinations.
- Outreach & education to those experiencing addiction / mental health problems / crisis.
- Collection and storage of release of information (ROI) documents.
- Case reviews.
- Data collection and analysis.

Partner Agencies

Partner Agencies may participate in either of the following capacities:

1. **Lead Agency** – Lead agencies of the Co-Responder Program are defined as those that contribute resources as negotiated and agreed upon by the other Lead Agencies. Each Partner desiring to be considered a lead agency will make a contribution in the form of equipment, vehicles, data collection, space at the department, or some other necessary resource identified by the Partners. NRBH will provide administrative and clinical oversight of the clinicians including clinical supervision and training, liability

insurance, electronic health record access for documentation, Medicaid and third-party billing when appropriate and human resources/personnel management. Lead Agencies shall have one voting member appointed to the Co-Responder Program Steering Committee by their respective agency.

Each Lead Agency shall make an annual contribution to the Co-Responder Program, which may be used to pay the salary of the Co-Responder. The amount of such annual contribution shall be agreed upon by the Parties in writing, and shall be paid to NRBH, by no later than July 1st of each year this Agreement is in effect. The Lead Agency's respective contributions for 2022 are set forth in Exhibit A.

2. **Support Agency** – Support agencies may be added or included as Partners when appropriate. This role is defined as Partner Agencies that participate on the Co-Responder Program Steering Committee and may contribute ideas and solutions to process development and implementation. Such agencies are encouraged to participate in all functions of the Co-Responder Program, including attendance and participation in meetings however they will not have a voting capacity on the Co-Responder Steering Committee.

Co-Responder Steering Committee

The Co-Responder Steering Committee monitors the functioning efficacy of the Co-Responder Program. Each Lead Agency will appoint one representative of their respective organization to serve as a voting member of the Co-Responder Program Steering Committee.

Responsibilities of Steering Committee

Members of the Co-Responder Steering Committee are committed to the following:

- Regularly attending the Co-Responder Steering Committee meetings.
- Soliciting regular feedback from all Partner Agencies.
- Understand any obstacles that may arise, and work to positively offer solutions for the betterment of all involved in the Co-Responder Program.
- Identify additional funding that may become available.
- Technical assistance as identified by participants in the Co-Responder Program.
- Provide data obtained from Co-Responder Program contacts and support its use in individual Partner Agencies funding applications when appropriate.
- Participate in case reviews.

Monitoring and Reporting

Members of Lead Agencies & Support Agencies are responsible for reporting back to their respective leadership on the Co-Responder Program progress utilizing data provided by the Steering Committee.

Partner Agency Responsibilities

Partner Agencies agree to seek feedback from the other Partner Agencies regarding the selection and evaluation of staff assigned to collaborative activities and agree to work within the scope and mission of the Co-Responder Program. Partner Agencies and NRBH retain responsibility and liability for the actions of their staff and volunteers.

Duration

This Agreement shall be deemed ongoing and may be modified or terminated by mutual consent of all the Partner Agencies and NRBH as memorialized in a writing executed by all Parties. Any party may withdraw from the Co-Responder Program at any time though written notice to all other parties is requested.

Governmental Immunity

Each Partner Agency is relying on, and does 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, § 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to each Partner Agency and its officers and employees.

Financial Contributions Subject to Appropriation

Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the Partner Agencies within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. Each Partner Agency's respective financial obligation under this Agreement is subject to annual budgeting and appropriation by such Partner Agency's governing body, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation by the governing body of a Partner Agency, such Partner Agency's participation in, and financial obligations under, this Agreement shall terminate effective December 31 of the then-current fiscal year.

Membership Type: Lead Agency ☐ Support Agency ☐ NRBH ☐

Agency Name

Address/City/State/Zip

Phone

Email

Printed Name

Title

Signature

Date

EXHIBIT A

NRBH and each participating agency commits to providing the following resources to the CVM Co-responder program, as available and as practicable:

Town of Frederick:

- One caged vehicle
- \$6500 budgeted for 2022

Town of Dacono:

- One 800 Mhz Radio
- \$6500 budgeted for 2022
-

Town of Mead:

- **Earpiece**
- **Ballistic Vest**
- \$6500 budgeted for 2022
-

Town of Firestone:

- \$6500 budgeted for 2022
- MDT Laptop

NRBH:

- One fully funded staff member.
- Administrative and clinical oversight of the clinician.
- Training, liability, insurance for clinician.
- Electronic health record access for documentation, Medicaid, and third-party billing when appropriate.
- Human resources/personnel management.

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 11.d

Discussion/Action

Meeting Date: April 27, 2022

Initiated By: Jessica Koenig

Dept: Legal

AGENDA TITLE

Ordinance 1008: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO REPEALING AND REENACTING IN ITS ENTIRETY CHAPTER 10.04 TRAFFIC CODE OF THE FIRESTONE MUNICIPAL CODE

SUMMARY

Since 1952 the Colorado Department of Transportation has published and regularly updated the Model Traffic Code for Colorado, ("MTC") which is modeled after the States Regulations of Vehicles and Traffic set forth in Article 4 Title 42 of the Colorado Revised Statutes. The MTC is adopted with amendments by municipalities to ensure the uniformity and standardization of traffic regulations throughout the State.

The State last updated the MTC in 2020 and to remain current the Town which is operating under the 2010 MTC must adopt the 2020 MTC.

HISTORY AND PREVIOUS BOARD ACTION

The Board as noted above last adopted the MTC in 2010.

RECOMMENDATION

The ordinance has been reviewed by the Police Department and Municipal Court Judge both of which support its adoption.

ALTERNATIVES

ATTACHMENTS

1. Model Traffic Code 2020 Ord

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 1008

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO, REPEALING AND REENACTING IN ITS ENTIRETY CHAPTER 10.04 OF THE FIRESTONE MUNICIPAL CODE REGARDING ADOPTION OF THE REVISED 2020 MODEL TRAFFIC CODE FOR COLORADO

WHEREAS, since 1952, the Colorado Department of Transportation (“CDOT”) has published and regularly updated a Model Traffic Code for Colorado, which is modeled after the applicable state statutes and adopted by municipalities to ensure the uniformity and standardization of traffic regulations throughout the state; and

WHEREAS, the Town of Firestone (“Town”) adopted the 2010 Model Traffic Code, which was the last edition; and

WHEREAS, CDOT published a 2018 and 2019 version of the Model Traffic Code, however, a final version was not published until 2020 and the Town now desires to adopt the Revised 2020 Model Traffic Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AS FOLLOWS:

Section 1. Chapter 10.04, Traffic Code, of the Firestone Municipal Code is repealed in its entirety and reenacted to provide as follows:

10.04.010. - Adoption.

The Revised 2020 Model Traffic Code for Colorado, promulgated and published by the Colorado Department of Transportation, Traffic Engineering Branch and Safety, 2829 West Howard Place, Denver, Colorado, 80204, excluding Appendices A, B, C, D, E, F & G, Part 17, Penalties and Procedure and Part 18, Vehicles Abandoned on Public Property, in their entirety, is hereby adopted by reference as the Model Traffic Code for the Town of Firestone as if fully set out in this codification with, however, the amendments set forth in this chapter.

10.04.020. - Scope and effect of code—Exceptions to provisions.

Section 103 (2) and 103 (2)(b) of the Model Traffic Code are repealed in their entirety and reenacted to provide:

- (2) The provisions of this code relating to the operation of vehicles and the movement of pedestrians shall apply to every street, alley, sidewalk, driveway, park and to every other public way or public place or public parking area within or outside the corporate limits of the town, the use of which the town has jurisdiction and authority to regulate except:
 - (b) Sections 1401, 1402 and 1413 of this code pertaining to reckless driving, careless driving and eluding a police officer shall apply to all land, areas, and property

(including private) within or outside the corporate limits of the town, the use of which the town has jurisdiction and the authority to regulate.

10.04.030. - Section 103, Scope and effect of Model Traffic Code—Exceptions to provisions.

Sections 103 (3) and (4) of the Model Traffic Code are enacted to provide:

- (3) All references in this code to "official sign(s)," "official signal(s)," "official traffic control device(s)," "official device(s)," or "official marking(s)," shall be construed to refer to any and all signs, signals, devices or markings that have been placed on or about roadways, highways and other public property within the town by authority of the town, or other proper governmental official or agency, whether or not the town or such other proper governmental official or agency exercised such authority by resolution or ordinance. It is the intent of this section that the "official" nature of any sign, signal, device or marking not be construed to be an element of any traffic offense or other provision or violation of this code. Any and all references in this code to acts of a municipality "by resolution," "by ordinance," or "by local ordinance," and any requirement within this code that a municipality act "by resolution," "by ordinance," or "by local ordinance," shall be repealed and to have been construed only to guide administrative action and not as an element of any traffic offense or violation of this code.
- (4) All provisions in this code establishing offenses as a Class A or B traffic infraction or Class 1 or 2 misdemeanor offense and establishing fines and other sentencing conditions in relation to such offenses, shall be repealed in their entirety, it being the intent that any violation of this code shall in accordance with 42-4-110 C.R.S., be subject to the town's general penalty provision as set forth in Section 1.16 of the Firestone Municipal Code. To the extent any notice or other procedures set forth in the Model Traffic Code conflict with the requirements or procedures set forth in the Firestone Municipal Code the later shall prevail.

10.04.040. - Section 104, Adoption of traffic control manual

Section 104 of the Model Traffic Code is repealed in its entirety re-enacted and retitled Authority of police personnel to provide:

- (1) It shall be the duty of the officers of the police department, or such officers as are assigned by the chief of police, to enforce all traffic regulations of the town and all of the State laws applicable to the town.
- (2) Officers of the police department, or such special officers as are assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand or signal in conformance with State traffic laws and this code; provided that, in the event of fire or emergency, or to expedite traffic or protect pedestrians, officers of the department, and other special officers as are assigned by the chief of police, may direct traffic as conditions may require notwithstanding the provisions of the state traffic laws or this code.

10.04.050. - Section 106, Who may restrict right to use highways

Section 106 (1) of the Model Traffic Code is amended by deleting the phrases “by ordinance or resolution” and “for a total period not to exceed ninety days in any one calendar year” in their entirety.

Section 106 (2) of the Model Traffic Code is amended to provide: Signs designating the permissible weights shall be erected and maintained.

Section 106 (3) of the Model Traffic Code is amended by deleting the phrase “by ordinance or resolution.”

Section (4.5)(b)(I) and (II) of the Model Traffic Code are repealed in their entirety.

Section 106 (6)(a) of the Model Traffic Code is amended by deleting the phrase “as evidenced by resolution or ordinance”

10.04.060. - Section 113, Appropriations for administration of article.

Section 113 of the Model Traffic Code is repealed in its entirety.

10.04.070. - Section 114, Removal of traffic hazards.

Section 114 (4) of the Model Traffic Code is enacted to provide:

If the town is not reimbursed within forty-five days after the property owner has been provided a demand for payment, the amount due shall become a lien against the property and certified by the town's finance director and recorded with the office of the Weld County Treasurer. Such lien shall have priority over all other liens except general taxes. The Weld County Treasurer shall collect and pay over to the town such charges in the same manner as the Treasurer is authorized to collect delinquent general property taxes.

10.04.080. - Section 115, Traffic engineer.

Section 115 of the Model Traffic Code is enacted to provide:

- (1) The office of the traffic engineer is hereby established. The traffic engineer shall be the town engineer or the engineer's authorized representative and shall exercise the power and duties provided in this code. The town engineer shall be directly responsible to the town manager for the performance of the duties and responsibilities of the traffic engineer.
 - (a) In the absence of such appointment or at such times as the traffic engineer may be absent from the municipality or unable to perform his/her duties, said duties shall be vested in and employee as may be designated by the town manager.
- (2) It shall be the duty of the traffic engineer or the official vested with the responsibility for traffic as provided herein to determine the installation and proper timing and maintenance of official traffic control devices, to conduct analyses of traffic accidents and to devise remedial or corrective measures, to conduct investigation of traffic conditions, to plan the operation of traffic on the streets and highways of the town, and to cooperate with other

town departments in the development of ways and means to improve traffic conditions, and to carry out such additional powers and duties as are imposed by this code.

(a) By way of example, but not of limitation, the traffic engineer or the official vested with the office as provided herein is hereby empowered and authorized, consistent with the provisions of this code, to act as follows:

1. Install, maintain, and remove traffic control devices;
2. Designate and mark medians and traffic islands;
3. Conduct speed limit surveys and investigations;
4. Designate maximum speed limits throughout the town and post said limits as provided in this code;
5. Designate minimum speed limits as provided by this code;
6. Regulate speed and traffic movement by traffic signals and provide for the synchronization of such signals as provided by this code.
7. Designate one-way streets or roadways;
8. Designate through streets or roadways and control entrances thereto;
9. Designate stop or yield intersections and erect stop or yield signs thereto;
10. Establish restrictions, prohibitions and regulations for the parking, standing, or stopping of vehicles;
11. Designate special parking zones for transit providers, press, television, radio cars, and the like;
12. Designate parking meter zones and establish time limitations thereon based on an engineering and traffic investigation;
13. Establish tow-away zones;
14. Designate upon what streets, if any, angle parking shall be permitted;
15. Designate and sign intersections at which drivers shall not make a right or left turn, a U turn, or any turn at all times or during certain times;
16. Designate and sign intersections where multiple turns shall be allowed;
17. Mark centerlines and lane lines and place other pavement markings necessary for the regulation and control of traffic;
18. Install and maintain crosswalks at intersections or other places where there is particular danger to pedestrians crossing the roadway;
19. Establish safety zones at such places where necessary for pedestrian protection;
20. Install pedestrian-control signals and designate those crossings where angle crossing by pedestrians shall be permitted;
21. Establish truck routes and truck loading zones; establish bus stops and taxicab stands;
22. Designate and sign those streets and roadways where pedestrians, bicyclists or other non-motorized vehicles, or persons operating a motor-driven cycle shall be excluded as provided by law;
23. Designate and sign those streets upon which vehicles or loads of a certain weight shall be prohibited;
24. Provide for temporary street or alley closures by the erection of barricades;
25. Issue special permits for curb loading operations, for the movement of vehicles having excess size or width, for parades or processions, and
26. Perform such other duties as may be assigned to the traffic engineer by the town manager consistent with the provisions of this code.

10.04.090. - Section 118, Drivers' license required.

Section 118 of the Model Traffic Code Establishment of wildlife crossing zones-report-repeal is repealed and reenacted in its entirety and retitled "Driver's license required" to provide:

- (1) Except as otherwise provided in C.R.S. 42-4-401 et seq. for commercial drivers, no person shall drive any motor vehicle upon a highway unless such person has been issued a currently valid driver's or minor driver's license or an instruction permit by the State's Department of Revenue.
- (2) No person shall drive any motor vehicle upon a highway if such person's driver's or minor driver's license has been expired for one year or less and such person has not been issued another such license by the State's Department of Revenue or by another state or country subsequent to such expiration.
- (3) No person shall drive any motor vehicle upon a highway unless such person has in their immediate possession a current driver's or minor driver's license or an instruction permit issued by the State's Department of Revenue.
- (4) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall drive a type or general class of motor vehicle upon a highway for which such person has not been issued the correct type or general class of license or permit.
- (5) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall operate a motor vehicle upon a highway without having such license or permit in such person's immediate possession.
- (6) A charge of a violation of subsection (2) of this section shall be dismissed by the court if the defendant elects not to pay the penalty assessment and, at or before the defendant's scheduled court appearance, exhibits to the court a currently valid driver's or minor driver's license.
- (7) A charge of a violation of subsection (5) of this section shall be dismissed by the court if the defendant elects not to pay the penalty assessment and, at or before the defendant's scheduled court appearance, exhibits to the court a currently valid license or permit issued to such person or an officially issued duplicate thereof if the original is lost, stolen or destroyed.
- (8) The conduct of a driver of a motor vehicle which would otherwise constitute a violation of this section is justifiable and not unlawful when:
 - (a) It is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of said driver and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweighs the desirability of avoiding the injury sought to be prevented by this section or;
 - (b) The person is exempt from the requirements of a valid driver's license as set forth in C.R.S. 4-2-102.

- (9) The issue of justification or exemption is an affirmative defense. As used in this subsection (9), “affirmative defense” means that, unless the town’s evidence raises the issue involving the particular defense, the defendant, to raise the issue, shall present some credible evidence of that issue. If the issue involved in an affirmative defense is raised, then the ability of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the traffic infraction.

10.04.100. - Section 203, Unsafe vehicles—Spot inspections.

Section 203 (3) and (4) of the Model Traffic Code are repealed in their entirety.

10.04.110. - Section 225, Mufflers—Prevention of noise.

Section 225 (3) of the Model Traffic Code is repealed in its entirety.

10.04.120. - Section 235, Minimum standards for commercial vehicles—Spot inspections.

Section 235, Minimum standards for commercial vehicles – spot inspections, of the Model Traffic Code, is repealed in its entirety and reenacted to provide:

- (1) A police officer may, at any time, require the driver of any commercial vehicle, as defined in C.R.S. 42-4-235, to stop so that the officer may inspect the vehicle and all required documents for compliance with the current rules and regulations promulgated by the Colorado Department of Public Safety, Colorado Code of Regulations Volume 8, 1507-1 "Minimum Standards for the Operation of Commercial Vehicles."
- (2) A police officer may immobilize, impound, or otherwise direct the disposition of a commercial vehicle when it is determined that the motor vehicle or operation thereof is unsafe and when such immobilization, impoundment, or disposition is appropriate under the current rules and regulations promulgated by the Colorado Department of Public Safety, Colorado Code of Regulations Volume 8, 1507-1 "Minimum Standards for the Operation of Commercial Vehicles."

10.04.130. - Section 237, Safety belt systems—Mandatory use—Exemptions penalty.

Section 237 (4) (a) of the Model Traffic Code is repealed in its entirety.

10.04.140. - Section 239, Misuse of wireless telephone—Definitions—Penalty preemption.

Section 239 (2), (5) and (5.5) (deleted) of the Model Traffic Code are amended to provide:

- (2) A person under eighteen years of age shall not use a wireless telephone while operating a motor vehicle. This subsection (2) does not apply to acts specified in subsection (4) of this section.
- (5) (Deleted)
- (5.5) (Deleted)

10.04.150. - Section 243, Nuisance exhibition of motor vehicle exhaust prohibited.

Section 243 of the Model Traffic Code is enacted to provide:

- (1) (a) It shall be unlawful for any person to engage in a nuisance exhibition of motor vehicle exhaust, which is the knowing release of soot, smoke, or other particulate emissions from a motor vehicle with a gross vehicle weight rating of fourteen thousand pounds or less into the air and onto roadways, other motor vehicles, bicyclists, or pedestrians, in a manner that obstructs or obscures another person's view of the roadway, other users of the roadway, or a traffic control device or otherwise creates a hazard to a driver, bicyclist, or pedestrian.
- (b) The prohibition set forth in subsection (1)(a) of this section does not apply to:
 1. A commercial vehicle, as defined in C.R.S. 42-4-235;
 2. A common carrier, as defined in C.R.S. 40-1-102(3)(a)(I);
 3. A motor carrier, as defined in C.R.S. 40-10.1-101(10);
 4. A motor carrier of passengers, permitted pursuant to C.R.S. 40-10.1-302;
 5. A motor carrier of towed motor vehicles, permitted pursuant to C.R.S. 40-10.1-401;
 6. A motor carrier of household goods, permitted pursuant to C.R.S. 40-10.1-502;
 7. A motor vehicle used for agricultural purposes; or
 8. Any other vehicle used for commercial activities.

10.04.160. - Section 501, Size and weight violations-penalty.

Section 501 of the Model Traffic Code is amended by addition of the following:

Notwithstanding any provision of this code to the contrary, when official signs are erected giving notice thereof, no person shall operate any vehicle with a weight limit in excess of the amounts specified on such signs at any time upon any of the streets or parts thereof or upon any of the bridges or viaducts posted as heretofore provided.

10.04.170. - Section 510, Permits for excess size and weight and for manufactured homes—Rules.

Section 510 (b)(1) of the Model Traffic Code is amended by deleting the phrase, "All local permits shall be issued in the discretion of the local authority pursuant to ordinances or resolutions adopted in accordance with section 511. Any ordinances or resolutions of local authorities shall not conflict with this section."

Section 510 (11), (12) of the Model Traffic Code are repealed in their entirety and (12) reenacted to provide:

(12) Local authorities may by resolution impose annual permit, single trip permits and overlength, overwidth and overheight permit fees.

10.04.180. - Section 616, Wildlife crossing zones-increase in penalties for moving traffic violations of the Model Traffic Code is repealed in its entirety.

10.04.190. - Section 714, Bicyclist, or other authorized use of a bicycle in the bicycle lane of the Model Traffic Code is enacted to provide:

- (1) The driver of a vehicle shall yield the right-of-way to a bicycle or other authorized user of a bicycle in the bicycle lane.
 - (a) For the purposes of this section "bicycle lane" means a portion of the roadway that has been designated by striping, signage, or other pavement markings for the exclusive use of bicyclists or other authorized users of bicycle lanes. Bicycle lane includes an intersection if the bicycle lane is marked on opposite sides of the intersection.

10.04.200. - Section 805, Pedestrians walking or traveling in a wheelchair on highways.

Section 805 (5) of the Model Traffic Code is repealed in its entirety and reenacted to provide:

Local authorities may regulate the use by pedestrians of streets and highways under its jurisdiction to the extent authorized under subsection (6) of this section but no regulation differing from this section shall be effective until official signs or devices giving notice thereof have been placed at such location.

10.04.210. - Section 1010, Driving on divided or controlled access highway.

Section 1010 (3) of the Model Traffic Code is amended by deleting the phrase "by ordinance."

10.04.220. - Section 1101, Speed limits.

Section 1101 (1) of the Model Traffic Code is amended by deleting the phrase "is reasonable and prudent under the conditions then existing" and replacing with the phrase "the maximum lawful speed limit."

10.04.230. - Section 1101, Speed limits.

Section 1101 (2)(a)(b), (c) and (d) of the Model Traffic Code are repealed in their entirety and reenacted to provide:

- (a) Twenty-five miles per hour in any residential district as defined in Title 17 of the Firestone Municipal Code;
- (b) Thirty miles per hour in any commercial district as defined in Title 17 of the Firestone Municipal Code;
- (c) Fifteen miles per hour in any alley.

Section 1101 (4) of the Model Traffic Code is repealed in its entirety.

Section 1101 (5) of the Model Traffic Code is amended by deleting the phrase "alleged reasonable and prudent speed" and replacing it with the phrase "maximum lawful speed limit."

10.04.240. - Section 1102, Altering of speed limits—when.

Section 1102 (1) and (2) and (3) of the Model Traffic Code are amended by deleting the phrases "is reasonable or safe" and replacing it with the phrase "the maximum lawful speed limit" and deleting the phrases "a reasonable and safe" and replacing it with the phrase "the maximum lawful."

Section 1102 (6) of the Model Traffic Code is amended by deleting the phrase "by ordinance, or a county by resolution of the board of county commissioners" and adding the phrase "apartment complex, condominium complex or townhouse complex" after the phrase "in mobile home parks" in the section's first sentence.

10.04.250. - Section 1203, Ski areas to install signs.

Section 1203 of the Model Traffic Code is repealed in its entirety.

10.04.260. - Section 1204, Stopping, standing or parking prohibited in specified places.

Section 1204 (8) of the Model Traffic Code is repealed in its entirety and enacted to provide:

No person shall stop, stand, or park any vehicle upon any private property without the consent of the owner, lessee or person in possession of such property.

10.04.270. - Section 1205, Parking at curb or edge of roadway.

Section 1205 (2) and (3) are amended by deleting the phrase "by ordinance" in both sections.

10.04.280. - Section 1209, Owner liability for parking violations.

Section 1209 of the Model Traffic Code is amended by the addition of the following:

In any prosecution charging a violation of any provision of this Part 12 governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute an evidentiary prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the location where, and for the time during which, such violation occurred.

10.04.290. - Section 1210, Designated areas on private property for authorized vehicles within unincorporated areas of a county.

Section 1210 of the Model Traffic Code is repealed in its entirety and re-enacted and retitled Parking Regulations to provide as follows:

- (1) *Definitions.* For the purposes of this section, the following words shall have the following meanings except as otherwise specified:
 - (a) "Adventure or camper van" means a self-propelled vehicle that provides both transport and sleeping accommodations that have often been fitted out with a coach-built body, to provide sleeping accommodations.
 - (b) "Commercial trailer" means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways in furtherance of any commercial activity.
 - (c) "Commercial vehicle" means any truck tractor, dump truck, semi-trailer, commercial trailer, tow truck or vehicle equipped to provide towing services, bus, which is used, or normally associated with, the transportation of materials, products, freight, other vehicles, or equipment in furtherance of any commercial activity or is used "for hire" except that any passenger vehicle designed to transport no more than nine persons or any pickup truck or van not exceeding twenty-five feet in length shall not be considered a commercial vehicle.
 - (d) "Food truck" means a motorized or towed, self-contained, readily movable vehicle, that is designed and equipped to prepare and sell beverages and/or food while parked in a fixed location.
 - (e) "Recreational vehicle" means a motor vehicle designed or used as a conveyance upon streets and highways and constructed so as to provide temporary occupancy as a dwelling or sleeping place for one or more persons. Recreational vehicle does not include an adventure van, camper van or pick-up truck with an attached camper shell.
 - (f) "Trailer" means any wheeled vehicle, without motive power which is designed to be drawn by a motor vehicle and carry its load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.
 - (g) "Travel trailer" means a portable structure, mounted on wheels, designed to be towed by a motorized vehicle and containing cooking or sleeping facilities to provide temporary living quarters for recreational camping or travel use. Such structures may be constructed with rigid sides or may have collapsible side walls of fabric, plastic or other pliable material.
- (2) *Designated vehicle parking prohibitions.*
 - (a) It shall be unlawful for any person to park any of the following vehicles on either side of the public right-of-way adjacent to any lot in any residential zoned district except, when such vehicle is being used to render services to a property located with two hundred feet of the vehicle:
 1. Any commercial vehicle or commercial trailer:
 2. Any motor vehicle exceeding twenty-five feet in length except that the measured length of such vehicle shall exclude towing gear bumpers and attached cargo racks.

3. A combination of a trailer and motor vehicle exceeding twenty-five feet in length or eight feet in wide.
 4. Any trailer or travel trailer exceeding twenty-five feet in length.
- (b) It shall be unlawful for any person to park a food truck and conduct business upon any public right-of-way except as authorized and in compliance with a permit issued by the city's office of special events.
 - (c) It shall not be a defense to this section that any vehicle, trailer, or food truck has been moved to a different location within the public right-of-way. To be in compliance the vehicle, trailer or food truck or must be removed from the right-of-way.
- (3) *Parking of recreational vehicles, travel trailers or trailers on public right-of-way prohibited.*
- (a) It is unlawful for any person to park a recreational vehicle, travel trailer or trailer on the public right-of-way except as follows:
 1. Directly in front of the single-family or multi-family dwelling of the vehicle's registered owner for a period of not more than seventy-two (72) hours when being loaded or unloaded nor more than five seventy-two (72) hour periods in any calendar year; or
 2. In compliance with the terms and conditions of a permit issued pursuant to subsection (d) herein below.
 3. It shall not be a defense to this section that the recreational vehicle, travel trailer or trailer has been moved to a different location within the public right-of-way. To be in compliance with this section, the recreational vehicle, travel trailer or trailer must be removed from the public right-of-way.
- (4) *Permits for parking of recreational vehicles or travel trailers on the public right-of-way.*
- (a) The director of public works or his/her designee may issue a permit to the registered owner of a recreational vehicle, travel trailer or trailer to park such vehicle for a period of time greater than seventy-two (72) hours on public right-of-way adjacent to any lot in any residential-zoned district subject to the following restrictions:
 1. The permit shall only allow the vehicle to be parked on the public right-of-way that is directly in front of the applicant's single-family or multi-family dwelling for a period of time which shall not exceed fifteen calendar days within any calendar year.

10.04.300. - Section 1213, Parking in electric motor vehicle charging station.

Section 1213(1)(a) of the Model Traffic Code is amended by deleting the phrase “or the equivalent local ordinance,” as used throughout this subsection.

10.04.310. - Section 1301, Open alcoholic beverage container in motor vehicle prohibited.

Section 1301 of the Model Traffic Code is enacted to provide:

- (1) *Definitions.* As used in this section, the following words and phrases shall mean as set forth below, unless otherwise specified:

- (a) "Alcoholic beverage" means a beverage as defined in C.R.S. 44-3-103(2).
 - (b) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.
 - (c) "Open alcoholic beverage container" means a bottle, can, or other receptacle that contains any amount of alcoholic beverage, and:
 - 1. That is open or has a broken seal; or
 - 2. The contents of which are partially removed.
 - (d) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including, but not limited to, the glove compartment.
- (2) (a) Except as otherwise permitted in paragraph (b) of this subsection (2), a person while in the passenger area of a motor vehicle that is on a public roadway or highway of this state or the right-of-way of a public roadway or highway of this state may not knowingly:
- 1. Drink an alcoholic beverage; or
 - 2. Have in his or her possession an open alcoholic beverage container.
- (b) The provisions of this subsection (2) shall not apply to:
- 1. Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;
 - 2. The possession by a passenger, other than the driver or a front seat passenger, of an open alcoholic beverage container in the living quarters of a house coach, house trailer, motor home or trailer coach as defined in Appendices, Definitions, (58) and (114(a));
 - 3. The possession of an open alcoholic beverage container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or
 - 4. The possession of an open alcoholic beverage container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

10.04.320. - Section 1302, Open marijuana container – motor vehicle prohibited.

Section 1302 of the Model Traffic Code is enacted to provide:

- (1) *Definitions.* As used in this section, the following words and phrases shall mean as set forth below unless otherwise specified.
 - (a) *Marijuana* means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant, which is incapable of germination, or the weight

- of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.
- (b) *Motor vehicle* shall mean a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.
 - (c) *Motor home* means a vehicle designed to provide temporary living quarters and which is built into an integral part of, or a permanent attachment to, a motor vehicle chassis or van.
 - (d) *Open marijuana container* means a receptacle or marijuana accessory that contains any amount of marijuana and:
 - 1. that is open or has a broken seal;
 - 2. the contents of which is partially removed; and
 - 3. there is evidence that marijuana has been consumed within the motor vehicle.
 - (e) *Passenger area* means the area designed to seat the driver and passengers, including seating behind the driver, while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.
 - (f) *Trailer coach* means a wheeled vehicle having an overall length, excluding towing gear and bumpers, of not less than twenty-six 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.
- (2) Except as otherwise permitted under this section, a person, while in the passenger area of a motor vehicle that is on a public street or roadway, or the right-of-way of a public street or roadway may not knowingly:
- (a) Use or consume marijuana; or
 - (b) Have in his or her possession an open marijuana container.
- (3) The provisions of this section shall not apply to:
- (a) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or passengers within a state and locally licensed mobile marijuana hospitality establishment;
 - (b) The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a motor home, or trailer coach;
 - (c) The possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or
 - (d) The possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

10.04.330. - Section 1409, Compulsory insurance – penalty – legislative intent.

Section 1409(4) and (9) of the Model Traffic Code are deleted in their entirety.

10.04.340. - Section 1417, Regulation of traffic across private property.

Section 1417 of the Model Traffic Code is enacted to provide:

- (a) It is unlawful for any person to drive a motor vehicle from a public highway or roadway or any public way of this town over, across or through any private property to avoid traffic

control signals or traffic control devices or as a route or shortcut from one public highway or roadway or any public way to another.

- (b) As used in this section, "private property" includes, but is not limited to, any property not designated as a public roadway, highway, street or public way, alley, right-of-way or easement.
- (c) It is an affirmative defense to a charge of violation of this section that the person charged is the owner of the property or the owner of a leasehold, possessory interest or easement in or to the property through or across which the motor vehicle is driven.

Section 2. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Violations of this ordinance shall be punishable in accordance with Section 1.16.010 of the Municipal Code of the Town of Firestone, Colorado, which reads in its entirety as follows:

- A. No person shall violate any of the provisions of the ordinances of the Town. Except in cases where a different punishment is prescribed by any ordinance of the Town, any person, at least ten years of age but not yet eighteen years of age, who violates any of the provisions of the ordinances of the Town, shall be punished by a fine not exceeding, at the time of the commission of the offense, the maximum fine established by the state for municipal ordinance violations.
- B. No person shall violate any of the provisions of the ordinances of the Town. Except in cases where a different punishment is prescribed by any ordinance of the Town, any person eighteen years of age or older at the time of the violation, who violates any of the provisions of the ordinances of the Town, shall be punished by a fine not exceeding, at the time of the commission of the offense, the maximum fine established by the state for municipal ordinance violations or by imprisonment not to exceed 364 days, or both such fine and imprisonment.
- C. Any person convicted of a violation of the Model Traffic Code as adopted by the Town shall be punished by a fine not exceeding the maximum amount established by the state for municipal ordinance violations except that any person convicted of the offenses of Model Traffic Code Sec. 1101, speeding more than twenty-four miles over the maximum permissible speed, Model Traffic Code Sec. 1105, speed contest, Model Traffic Code Sec. 1401 reckless driving, Model Traffic Code Sec. 1413, eluding or attempting to elude a peace officer or Model Traffic Code Sec. 1409, compulsory insurance shall be subject to imprisonment not to exceed 364 days or both such fine and imprisonment.
- D. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of Firestone,

Colorado, is committed, continued or permitted by any such person, and he or she shall be punished accordingly.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN
FULL this ___th day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, CMC, Town Clerk

William P. Hayashi, Town Attorney

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 11.e

Discussion/Action

Meeting Date: April 27, 2022

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Ordinance 1009: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO REPEALING AND REENACTING IN ITS ENTIRETY TITLE 9 PUBLIC PEACE MORALS AND WELFARE OF THE FIRESTONE MUNICIPAL CODE

SUMMARY

Title 9 Public Peace Morals and Welfare of the Firestone Municipal Code has not been significantly amended since 1989. There is thus a need to delete outdated and duplicative offenses and update both the elements and penalties of certain offenses. Additionally, there are numerous offenses such as those pertaining to fireworks, excessive sound, amplified noise, and junked and abandoned vehicles, which are more appropriately addressed in the Municipal Codes nuisance provisions.

The proposed Ordinance is modeled after the State's Criminal Code set forth in Title 18 C.R.S. One advantage of this is that the officers already use Title 18 for matters prosecuted in Weld County. Additionally, there is case law which supports the States definitions, general procedures as to matters such as affirmative defenses, attempt and complicity and the elements of offenses for which the Town has jurisdiction of, such as assault, reckless endangerment, harassment, and disorderly conduct.

Another benefit is that when there are legal challenges to state offenses of which the Town has a counterpart the Town can quickly amend the Town's offense. For example, a portion of the States offense of Harassment C.R.S. 18-9-111 for which the Town has a counterpart was recently declared to be unconstitutional by the Colorado Supreme Court. The Court's order set forth the language which must be deleted, and that change has been incorporated into the draft ordinance.

HISTORY AND PREVIOUS BOARD ACTION

Though there have been some recent amendments such as those prohibiting the use of marijuana there have not been significant updates to Title 9 since 1989.

RECOMMENDATION

The ordinance has been reviewed by the Police Department and Municipal Court Judge both of which support its adoption.

ALTERNATIVES

There is none as the current ordinance is outdated and must be amended to comply with current law.

ATTACHMENTS

1. Criminal Code Amend Ord

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 1009

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING AND REENACTING IN ITS ENTIRETY TITLE 9, PUBLIC PEACE, MORALS AND WELFARE OF THE FIRESTONE MUNICIPAL CODE

WHEREAS, the Town of Firestone's, ("Town"), Criminal Offenses set forth in Title 9 of the Firestone Municipal Code have not been comprehensively reviewed and amended since 1988 and are in need of updates to ensure compliance with current case law and statutes and to address issue of concern within the community; and

WHEREAS, for general offenses, it is beneficial for enforcement, officer training and administrative convenience of staff and the municipal court to use the State's Criminal Code, as set forth in C.R.S. Title 18 as guidance for enforcement of the Town's criminal code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. Title 9, Public Peace, Morals and Welfare, of the Firestone Municipal Code is repealed in its entirety and reenacted to provide as follows:

CHAPTER 9.04 - GENERAL PROVISIONS

9.04.010 - Definitions.

(a) Except where such is otherwise defined within this chapter the words, terms and phrases used in this chapter shall have the meanings ascribed to them in the Colorado Criminal Code, Colorado Revised Statutes ("C.R.S.") § 18-1-101 et seq., as same may be amended from time:

- (1) Bodily injury means physical pain, illness, or any impairment of physical or mental condition.
- (2) Conceal means to place or attempt to place out of view in such manner and circumstances as to indicate intent to prevent others from seeing or discovering the presence of the thing concealed.
- (3) Criminal negligence means when through a gross deviation from the standard of care that a reasonable person would exercise, a person fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.
- (4) Deadly weapon means any firearm, whether loaded or unloaded, knife, bludgeon, or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or intended to be used is capable of producing death or serious bodily injury.
- (5) Emergency medical service provider means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as such emergency medical service provider.
- (6) Intentionally or with intent. All offenses defined in this title in which the mental culpability requirement is expressed as "intentionally" or "with intent" are declared

to be specific intent offenses. A person acts "intentionally" or "with intent" when a person's conscious objective is to cause the specific result proscribed by the ordinance defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

- (7) Knowingly or willfully means all offenses defined in this title in which the mental culpability requirement is expressed as "knowingly" or "willfully" are declared to be general intent crimes. A person acts "knowingly" or "willfully" with respect to conduct or to a circumstance described by an ordinance defining an offense when the person is aware that such person's conduct is of such nature or that such circumstance exists. A person acts "knowingly" or "willfully," with respect to a result of such person's conduct, when the person is aware that the person's conduct is practically certain to cause the result.
- (8) Loiter means to be dilatory, to stand idly around, to linger, delay, or wander about, to remain, abide, or tarry in public places.
- (9) Peace officer, police officer or law enforcement officer means as defined in C.R.S. § 16-2.5-101 and/or C.R.S. § 16-2.5-105, as same may be amended.
- (10) Public place means a place to which the public or a substantial number of the public has access, and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings and facilities.
- (11) Recklessly means when a person consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.
- (12) Serious bodily injury means bodily injury which involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body.
- (13) Vehicle means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or like, to transport persons or property or pull machinery and shall include, without limitation, automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy and wagon.

CHAPTER 9.08 - OFFENSES - GENERAL

9.08.010 - Intent.

It is the intent and purpose of this title not to define as unlawful any conduct which is defined as a felony under the Colorado Criminal Code, as amended, or any succeeding enactment of state law, and this title will be so construed, notwithstanding any language contained herein which might otherwise be construed to the contrary.

9.08.020 - Affirmative defenses.

The affirmative defenses as set forth in the Colorado Criminal Code C.R.S. § 18-1-710 as amended, shall be available as affirmative defenses to prosecutions in the municipal court.

9.08.030 - Attempts to commit crime.

- (a) A person commits criminal attempt if, acting with the kind of culpability otherwise required

for commission of an offense, the person engages in conduct constituting a substantial step toward the commission of the offense. A substantial step is any conduct, whether act, omission, or possession, which is strongly corroborative of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish the person's complicity under this section were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a prosecution under this title that defendant abandoned the effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of criminal intent. The renunciation shall not be deemed voluntary where motivated by fear of imminent discovery of or apprehension for the defendant's criminal conduct.

9.08.040 - Complicity.

(a) A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, the person, aids, abets, or advises the other person in planning or committing the offense.

(b) It is not a defense to a prosecution under this title that the other person whose behavior constitutes a criminal offense was not or could not be prosecuted for the offense.

(c) It is an affirmative defense to a prosecution under this title that the defendant prevented or attempted to prevent the commission of the underlying offense, under circumstances manifesting the complete and voluntary renunciation of such person's criminal intent. The renunciation shall not be deemed voluntary where motivated by fear of imminent discovery of or apprehension for the defendant's criminal conduct.

9.08.050 - Charging inchoate offenses.

It shall be sufficient notice of the charging of an inchoate offense where the complaint states the name and section number of the underlying offense. A defendant shall not be acquitted or a complaint dismissed solely on the ground that the prosecution's theory of the defendant's guilt relies upon an inchoate offense which has not been expressly charged.

9.08.060 – Parental/legal guardian responsibilities.

(a) A parent/legal guardian shall attend required appearances for their minor child in municipal court who is under eighteen years of age and for whom they have custody and control.

(b) Whenever a minor child as defined herein is convicted of a municipal offense or found liable for a traffic offense, the parent/legal guardian shall be jointly responsible for payment of such fine, penalty or court costs imposed by the municipal court.

CHAPTER 9.12 – OFFENSES AGAINST PERSONS

9.12.010 - Assault.

(a) It shall be unlawful to commit assault. A person commits assault by:

- (1) Knowingly or recklessly causing bodily injury to another person or with criminal negligence cause bodily injury to another person by means of a deadly weapon; or
- (2) With intent to harass, annoy, threaten, or alarm another person whom the actor knows or reasonably should know to be a peace officer, a firefighter, an emergency medical care provider, or an emergency medical service provider, causes such person to come into contact with blood, seminal fluid, urine, feces, saliva, mucus, vomit, or toxic, caustic, or hazardous material by any means, including throwing, tossing, or expelling the fluid or material.

(b) Emergency medical care provider means a doctor, intern, nurse, nurse's aide, physician's assistant, ambulance attendant or operator, air ambulance pilot, paramedic, or any other member of a hospital or health care facility staff or security force who is involved in providing emergency medical care at a hospital or health care facility, or in an air ambulance or ambulance as defined in C.R.S. § 25-3.5-103(1) and (1.5).

9.12.020 - Menacing; without deadly weapon.

It shall be unlawful for any person to knowingly place or attempt to place another person in fear of imminent serious bodily injury by any threat or physical action; provided, however, that if such is with the use of a deadly weapon, then this section shall not apply.

9.12.030 - Reckless endangerment.

It shall be unlawful for any person to recklessly engage in conduct that creates substantial risk of serious bodily injury to another person.

9.12.040 - Harassment.

(a) It shall be unlawful to commit harassment. A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she:

- (1) Strikes, shoves, kicks, or otherwise touches or subjects a person to physical contact;
- (2) In a public place directs obscene language or makes an obscene gesture to or at another person;
- (3) Follows a person in or about a public place;
- (4) Directly or indirectly initiates communication with a person, or directs language towards another person, anonymously or otherwise by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system or other interactive electronic medium in a manner intended to threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, or computer, computer network, computer system or other interactive electronic medium that is obscene;
- (5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

- (6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or
- (7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

(b) Any act prohibited by subsections (4) and (5) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail, or other electronic communication was either made or received.

(c) As used in this section, unless the context otherwise requires, the term "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(d) This section is not intended to infringe upon any right guaranteed to any person by the first amendment to the United States Constitution or article II, section 10 of the Colorado Constitution or to prevent constitutionally protected expression of any religious, political or philosophical views.

9.12.050 - False imprisonment.

It shall be unlawful for any person to knowingly confine or detain another without the other's consent and without proper legal authority. This section shall not apply to a peace officer acting in good faith within the scope of his or her duties or where the person uses force or threat of force to confine or detain a person or where a person confines or detains a person for 12 hours or longer.

CHAPTER 9.16 – OFFENSES AGAINST PROPERTY

9.16-010 - Theft.

(a) It shall be unlawful to commit theft. A person commits theft when such person knowingly obtains, retains or exercises control over anything of value of another without authorization or by threat or deception; or receives, loans money by pawn or pledge on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen, and:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;
- (2) Knowingly uses, conceals or abandons the thing of value in such a manner as to deprive the other person permanently of its use or benefits;
- (3) Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use or benefit;
- (4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person; or
- (5) Knowingly retains the thing of value more than 72 hours after the agreed-upon time for return in any lease or hire agreement.

(b) This section shall not apply when the aggregate value of the items taken in any one criminal episode exceeds the maximum dollar amount for a class 1 misdemeanor as set forth in C.R.S. § 18-4-401(2)(e) as amended, nor where the item taken is a motor vehicle, trade secret or credit device. Further, this section shall not apply where the theft is committed by fraudulent use of a credit device.

9.16.020 - Shoplifting.

(a) It shall be unlawful to commit the crime of shoplifting. A person commits the crime of shoplifting when such person knowingly takes possession of any unpurchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or mercantile establishment, with the intention of converting such goods, wares or merchandise to his or her own use, without paying the purchase price thereof.

(b) If any person willfully conceals unpurchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or any other mercantile establishment, whether the concealment is on his or herself or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of shoplifting.

(c) If any person triggers an alarm or a theft detection device as defined in C.R.S. § 18-4-417(2), as amended, or conceals upon his or her person or otherwise carries away any unpurchased goods, wares, or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any peace officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person, in a reasonable manner for the purpose of ascertaining whether the person has committed theft. Such questioning of a person by a merchant, merchant's employee, or peace or police officer does not render the merchant, merchant's employee, or peace officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(d) This section shall not apply where the value of the unpurchased goods, wares or merchandise exceeds the maximum dollar amount for a class 1 misdemeanor as set forth in C.R.S. § 18-4-401(2)(e), as amended.

9.16.030 - Theft detection devices prohibited.

(a) It shall be unlawful for any person to knowingly manufacture, distribute, or sell a theft detection shielding device or a theft detection deactivating device with the knowledge that some person intends to use the device in the commission of an offense involving theft.

(b) It shall be unlawful for any person to possess a theft detection shielding device or a theft detection deactivating device with the intent to use the device possessed, or with the knowledge that some person intends to use the device possessed, in the commission of an offense involving theft.

(c) It shall be unlawful for any person to knowingly deactivate or remove a theft detection device or any component thereof in any store or mercantile establishment without authorization prior to purchase.

(d) As used in this section:

- (1) "Theft detection deactivating device" means any tool, instrument, mechanism, or other article adapted, designed, engineered, used, or operated to inactivate,

incapacitate, or remove a theft detection device without authorization. "Theft detection deactivating device" includes, but is not limited to, jumper wires, wire cutters, and electronic article surveillance removal devices.

- (2) "Theft detection device" means an electronic or magnetic mechanism, machine, apparatus, tag, or article designed and operated for the purpose of detecting the unauthorized removal of merchandise from a store or mercantile establishment.
- (3) "Theft detection shielding device" means any tool, instrument, mechanism, or article adapted, designed, engineered, used, or operated to avoid detection by a theft detection device during the commission of an offense involving theft. "Theft detection shielding device" includes, but is not limited to, foil-lined or otherwise modified clothing, bags, purses, or containers capable of and for the sole purpose of avoiding detection devices.

9.16.040 - Fraudulent failure to pay admission fee.

It shall be unlawful for any person to, fraudulently or without lawful authorization, enter any venue, facility or establishment where an admission fee is charged without payment of the required fee; provided that nothing herein shall be deemed to prohibit or restrict the admission of police officers or other public officials engaged in the performance of their official duties.

9.16.050 - Criminal mischief.

- (a) It shall be unlawful for any person to knowingly damage the real or personal property of one or more other persons, including property owned by the person jointly with another person, or property owned by the person in which another person has a possessory or proprietary interest.
- (b) This section shall not apply where the aggregate damage to the real or personal property exceeds the maximum dollar amount for a class 1 misdemeanor, as set forth in C.R.S. § 18-4-501, as amended.

9.16.060 - Graffiti prohibited.

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings as ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Graffiti shall mean any marking, symbol, slogan, logo, wording, phrase, name or other extraneous painting, drawing, scratching, etching, inscribing or writing by use of paint, spray, markers, ink, glass cutting or etching tool or cream, or other method applied to public or private property without the consent of the owner, and which is not commercial or political advertising.

Minor shall mean any person less than 18 years of age.

Prohibited graffiti material shall mean any can of spray paint, spray paint nozzle, broad tipped marker pen, paint pen, glass cutting tool, or glass etching tool or cream which goods are further defined herein as:

- (1) "Broad tipped marker pen" means a felt-tip marker, or similar implement containing a fluid which is not water soluble with a tip that exceeds one-quarter inch in width.
- (2) "Paint pens" means a tube, marker, or other pen-like instrument with a tip of one-quarter inch in diameter or less that contains paint or a similar fluid and an internal paint agitator.

- (3) "Spray paint" means any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.
- (4) "Spray paint nozzle" means a nozzle designed to deliver a spray of paint of a particular width or flow from a can of spray paint.

(b) Unlawful placement upon property. It shall be unlawful for any person to place any graffiti upon any public or private property.

(c) Possession prohibited.

- (1) It shall be unlawful for any minor, except a minor under the direct supervision of the minor's parent, legal guardian, school teacher, or a law enforcement officer in the performance of such person's duty, to purchase, procure, or possess, or attempt to purchase, procure, or possess, any prohibited graffiti material.
- (2) It shall be an affirmative defense to charges under this subsection that the minor possessing the material was:
 - a. Within his or her home;
 - b. In the course of his or her employment; or
 - c. Upon real property with permission from the owner, occupant, or person having lawful control of such property, which person may also lawfully possess such materials.

(d) Sale prohibited to minor.

- (1) It shall be unlawful for any person, other than a parent, legal guardian, school teacher, or law enforcement officer in the performance of such person's duty, to sell, exchange, give, deliver, loan, or otherwise furnish or cause to permit to be sold, exchanged, given, delivered, loaned or otherwise furnished any prohibited graffiti material to any minor unless the minor is accompanied by his or her parent or legal guardian.
- (2) It shall be an affirmative defense to prosecution under this section that the merchant has adopted and enforces a written policy against selling prohibited graffiti materials to minors, has informed its employees of the applicable laws regarding the sale of prohibited graffiti materials to minors, requires that employees verify the age of customers who desire to purchase prohibited graffiti materials and has established and imposes sanctions upon its employees for noncompliance.

(e) Signs required. It shall be unlawful for any person who sells or offers to sell any prohibited graffiti material to fail to display a warning sign. Such warning sign shall be displayed in a prominent place within the premises at all times and shall have a minimum height of 14 inches and a width of 11 inches, with lettering of at least one-half inch in height and shall read as follows:

WARNING

IT IS ILLEGAL TO SELL TO ANY PERSON UNDER EIGHTEEN YEARS OF AGE ANY SPRAY PAINT, SPRAY PAINT NOZZLE, BROAD TIPPED MARKER PEN, PAINT PEN, GLASS CUTTING TOOL, OR GLASS ETCHING TOOL OR INSTRUMENT UNLESS SUCH PERSON IS ACCOMPANIED BY THEIR PARENT OR LEGAL GUARDIAN.

(f) Display and storage. It shall be unlawful for any person who owns, conducts, operates, or

manages a business where prohibited graffiti materials are sold or who sells or offers for sale any prohibited graffiti material to store or display, or cause to be stored or displayed prohibited graffiti material in an area that is accessible to the public without employee assistance. This subsection shall not be construed to preclude or prohibit the storage or display of prohibited graffiti material in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

(g) Contributing to unlawful possession.

- (1) It shall be unlawful for any person, except a law enforcement officer in the performance of his/her duty, to knowingly allow a minor to possess prohibited graffiti materials upon any public or private real property.
- (2) It shall be an affirmative defense to charges under this subsection that the minor possessing the material was:
 - a. Within the minor's home;
 - b. In the course of his or her employment; or
 - c. Upon real property with permission from the owner, occupant, or person having lawful control of such property, which person may also lawfully possess such materials.

9.16.070 - Tampering.

- (a) It shall be unlawful for any person to tamper with the property of another with the intent to cause injury, inconvenience, or annoyance to that person or to another or for any person to knowingly make an unauthorized connection with property of a utility.
- (b) For the purposes of this section "tamper" means to interfere with something improperly, to meddle with, or to make unwarranted alterations in its condition.

9.16.080 - Joyriding.

- (a) It shall be unlawful and constitute joyriding for any person to drive or take any motor vehicle without the consent of the owner or lawful possessor thereof, with the intent of temporarily depriving the owner or possessor of the use of the same, or temporarily making use thereof.
- (b) If the person who in the course of so driving or taking the motor vehicle does one or more of the following, joyriding has not occurred:
 - (1) Retains possession or control of the motor vehicle for more than 24 hours;
 - (2) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle;
 - (3) Attempts to alter or remove or alters or removes the vehicle identification number;
 - (4) Uses the motor vehicle in the commission of a crime other than a traffic offense;
 - (5) Causes \$500.00 or more property damage in the exercise or control of the motor vehicle;
 - (6) Causes bodily injury to another person while he is in the exercise or control of the motor vehicle;
 - (7) Removes the motor vehicle from this state for a period of time in excess of 12 hours; or

- (8) Unlawfully attaches or otherwise displays in or upon the motor vehicle license plates other than those officially issued for the motor vehicle.

9.16-090 - Motor vehicle theft.

It shall be unlawful to commit motor vehicle theft. A person commits motor vehicle theft if such person knowingly obtains or exercises control over a motor vehicle of another without authorization or by threat or deception and if the value of the motor vehicle does not exceed the maximum dollar amount for a class 1 misdemeanor as set forth in C.R.S. 18-4-409(4)(c) as same may be amended from time to time.

9.16.100 - Trespass.

It shall be unlawful for any person without legal authority to enter or remain in or upon any premises.

CHAPTER 9.20 – OFFENSES AGAINST THE PUBLIC PEACE AND SAFETY AND DISRUPTION OF COMMUNICATIONS

9.20.010 - Disorderly conduct.

(a) It shall be unlawful for any person to commit disorderly conduct. A person commits disorderly conduct when a person intentionally, knowingly, or recklessly:

- (1) Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace;
- (2) Makes unreasonable noise in a public place or near a private residence that the person has no right to occupy;
- (3) Fights with another in a public place except in an amateur or professional contest of athletic skill;
- (4) Not being a peace officer, displays a real or simulated firearm, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a firearm, or represents verbally or otherwise that they are armed with a firearm in a public place in a manner calculated to alarm and does alarm another person; or
- (5) Not being a peace officer, discharges a firearm in a public place, except when engaged in lawful target practice or hunting or the ritual discharge of blank ammunition cartridges as an attendee at a funeral for a deceased person who was a veteran of the armed forces of the United States.

(b) It is an affirmative defense to prosecution under subsection (a) (1) of this section that the person had significant provocation for their abusive or threatening conduct.

9.20.020 - Obstructing highway or other passageway.

(a) It shall be unlawful to obstruct a highway or other passageway. A person commits the crime of obstruction of a highway or other passageway, when any person:

- (1) If without legal privilege, to intentionally, knowingly, or recklessly: Obstruct a highway, street, roadway, sidewalk, railway, transit way, waterway, building entrance, elevator, escalator, aisle, stairway, or hallway to which the public or a

substantial group of the public has access or any other place used for the passage or conveyance of persons or vehicles, whether the obstruction arises from defendant's acts alone or from their acts and the acts of others; or

- (2) Disobeys a reasonable request or order to move issued by a person the individual knows to be a peace officer, firefighter or person with authority to control the use of the premises to prevent obstruction of a highway or passageway.

(b) For purposes of this section, "obstruct" or "obstruction" means to render impassable, or to render passage unreasonably inconvenient or hazardous.

9.20-030 - Loitering.

(a) Prohibited acts.

- (1) It shall be unlawful for any person to loiter with the intent to violate any provision of this title, or the Colorado Criminal Code.
- (2) It shall be unlawful for any person to loiter with intent to interfere with or disrupt a school program or with intent to interfere with or endanger school children in a school building or on school grounds or within 100 feet of school grounds when persons under the age of 18 years are present in the building or on the grounds, where such person does not have any reason or relationship involving custody for, or responsibility for any student or any other specific, legitimate reason for being present at such location, and has been asked to leave by a school administrator or their representative or by a peace officer.

(b) Reasonable grounds; duty of peace officer.

- (1) Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that such person is loitering is the fact that such person:
 - a. Takes flight upon appearance of a peace officer;
 - b. Refuses to identify him or herself;
 - c. Manifestly endeavors to conceal him or herself or any object;
 - d. Not being duly authorized security personnel or a peace officer, systematically checks the means to access to buildings or vehicles in the immediate area; or
 - e. Maintains a continuous presence in close proximity to a place where a reasonable peace officer would conclude that such person's activity manifests a high probability of activity or intention to engage in activity in violation of this title, or any criminal provision of the Colorado Criminal Code.
- (2) Unless flight by the person or other circumstances make it impractical, a peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm otherwise warranted, or explain any circumstances giving rise to reasonable grounds for belief that such person is loitering by requesting such person to:
 - a. Identify him or herself; and
 - b. Explain their presence and conduct.

(c) Standard for conviction. No person shall be convicted of an offense under subsection (a) of

this section if the peace officer did not comply with subsections (b)(1) and (2) of this section, or if at trial, that the explanation of presence and conduct given by the defendant was determined truthful by the trier of fact, and, under the circumstances, would have dispelled the reasonableness of the peace officer's belief that the defendant was engaging in unlawful activity or would have disclosed a lawful purpose.

9.20.040 - Curfew.

(a) It shall be unlawful for any minor (person under the age of 18 years) to loiter or remain upon any public street, alley or other public place after the time of 10:00 p.m. or prior to the time of 5:00 a.m.; provided, however, that on Friday and Saturday the prohibited hours shall be from 10:00 p.m. to 5:00 a.m.

(b) It shall be unlawful for any parent, legal guardian or other person 21 years of age or older having care and custody of such minor to allow such minor to loiter or remain upon any public street, alley or other public place after the time of 10:00 p.m. or prior to the time of 5:00 a.m.; provided, however, that on Friday and Saturday the prohibited hours shall be from 11:00 p.m. to 5:00 a.m.

(c) It shall be an affirmative defense to the offenses described in subsections (a) and (b) of this section that the minor is:

- (1) Accompanied by a parent or legal guardian;
- (2) Is traveling to or from a place of employment or engaged in lawful employment without a detour or otherwise stopping;
- (3) Is attending or traveling to or from a supervised activity sponsored by a school, civic, religious or other recognized public organization;
- (4) Involved in the exercise of First Amendment rights protected by the United States and/or state constitutions;
- (5) Engaged in interstate travel;
- (6) On the sidewalk abutting the minor's parents' or legal guardian's residence;
- (7) Involved in an emergency situation. For the purposes of this section, the term "emergency" shall mean those situations where life or property is in imminent danger and the prompt summoning of aid or escape is essential; or
- (8) Married or had the disabilities of being a minor lawfully removed.

9.20.050 - Hindering transportation.

It shall be unlawful for any person to hinder transportation. A person commits the offense of hindering transportation when such person knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person or entity.

9.20.060 - Throwing dangerous missiles.

It shall be unlawful for any person to willfully, maliciously, or recklessly throw, shoot or project any stone, arrow, pellet, dart, ball bearing, or other object at or against any person, animal, building, structure, personal property or fixture or vehicle of another, except that the provisions of this section shall not apply to persons throwing, projecting, or shooting any other object at any animal in order to protect his or her person or property or the person or property of another from

physical injury, or for recreational purposes in such a manner that no unreasonable risk of harm is presented to any person, or to the real or personal property of any person.

9.20.070 - Obstruction of telephone service.

It shall be unlawful for any person to obstruct telephone service. A person commits obstruction of telephone service if the person knowingly prevents, obstructs, or delays, by any means whatsoever, the sending, transmission, conveyance, or delivery in this state of any message, communication, or report by or through any telephone line, wire, cable, or other facility or any cordless, wireless, electronic, mechanical, or other device.

9.20.080 - Computer crimes.

(a) As used in this section, unless the context otherwise requires:

- (1) Authorization means the express consent of a person which may include an employee's job description to use said person's computer, computer network, computer program, computer software, computer system, property, or services as those terms are defined in this section.
- (2) Computer means an electronic, magnetic, optical, electromagnetic, or other data processing device which performs logical, arithmetic, memory, or storage functions by the manipulations of electronic, magnetic, radio wave, or light wave impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to or operating in conjunction with such a device.
- (3) Computer network means the interconnection of communication lines (including microwave or other means of electronic communication) with a computer through remote terminals, or a complex consisting of two or more interconnected computers.
- (4) Computer program means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.
- (5) Computer software means computer programs, procedures, and associated documentation concerned with the operation of a computer system.
- (6) Computer system means a set of related, connected or unconnected, computer equipment, devices, and software.
- (6.3) Damage includes, but is not limited to, any impairment to the integrity of availability of information, data, computer program, computer software, or services on or via a computer, computer network, or computer system or part thereof.
- (6.7) Exceed authorized access means to access a computer with authorization and to use such access to obtain or alter information, data, computer program, or computer software that the person is not entitled to so obtain or alter.
- (7) Financial instrument means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card, or marketable security.
- (8) Property includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value.

- (9) Services includes, but is not limited to, computer time, data processing, and storage functions.
- (10) To use means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

(b) It shall be unlawful for any person to commit computer crime. A person commits computer crime if the person knowingly:

- (1) Accesses a computer, computer network, or computer system or any part thereof without authorization; exceeds authorized access to a computer, computer network, or computer system or any part thereof; or uses a computer, computer network, or computer system or any part thereof without authorization or in excess of authorized access;
- (2) Accesses any computer, computer network, or computer system, or any part thereof for the purpose of devising or executing any scheme or artifice to defraud;
- (3) Accesses any computer, computer network, or computer system, or any part thereof to obtain, by means of false or fraudulent pretenses, representations, or promises, money; property; services; passwords or similar information through which a computer, computer network, or computer system or any part thereof may be accessed; or other thing of value;
- (4) Accesses any computer, computer network, or computer system, or any part thereof to commit theft;
- (5) Without authorization or in excess of authorized access alters, damages, interrupts, or causes the interruption or impairment of the proper functioning of, or causes any damage to, any computer, computer network, computer system, computer software, program, application, documentation, or data contained in such computer, computer network, or computer system or any part thereof;
- (6) Causes the transmission of a computer program, software, information, code, data, or command by means of a computer, computer network, or computer system or any part thereof with the intent to cause damage to or to cause the interruption or impairment of the proper functioning of or that actually causes damage to or the interruption or impairment of the proper functioning of any computer, computer network, computer system, or part thereof; or
- (7) Uses or causes to be used a software application that runs automated tasks over the internet to access a computer, computer network, or computer system, or any part thereof, that circumvents or disables any electronic queues, waiting periods, or other technological measure intended by the seller to limit the number of event tickets that may be purchased by any single person in an on-line event ticket sale as defined in C.R.S. § 6-1-720 as amended.

(c) This section shall not apply where the loss, damage, value of services, or thing of value taken or cost of restoration or repair in any one criminal episode exceeds the maximum dollar amount for a class one misdemeanor as set forth in C.R.S. § 18-4-401(2)(e), as amended.

- (1) If computer crime is committed to obtain event tickets, each ticket purchased shall constitute a separate offense.

- (2) Paragraph (7) of subsection (b) of this section shall not prohibit the resale of tickets in a secondary market by a person other than the event sponsor or promoter.

CHAPTER 9.24 – OFFENSES RELATED TO GOVERNMENTAL OPERATIONS

9.24.010 - Resisting arrest.

(a) It shall be unlawful for any person to knowingly prevent or attempt to prevent any police officer acting under color of their official authority from effecting an arrest of the actor or another by:

- (1) Using or threatening to use physical force or violence against the police officer or another;
- (2) Using any other means which creates a substantial risk of causing bodily injury to the police officer or another.

(b) It is no defense to a prosecution under this section that the police officer was attempting to make an arrest which in fact was unlawful, if the officer was acting under color of their official authority and was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts under color of their official authority when, in the regular course of assigned duties, he or she is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her.

9.24.020 - Escape.

It shall be unlawful for any person to escape or attempt to escape from the custody of a police officer or from the custody of any person lawfully aiding such police officer; provided, however, that the provisions of this section shall not apply whenever the escapee is being held for conviction of, or being charged with, or detained for the commission of any felony.

9.24.030 - Obstruction of peace officer, firefighter, emergency medical services provider, rescue specialist, code enforcement officer, or volunteer.

(a) It shall be unlawful for any person to obstruct a peace officer, firefighter, emergency medical services provider, rescue specialist, parking official, code enforcement officer, or volunteer when, by using or threatening to use violence, force, physical interference, or an obstacle, such person knowingly obstructs, impairs or hinders the enforcement of any penal law or the preservation of the peace by a peace officer, acting under color of his or her official authority; knowingly obstructs, impairs, or hinders the prevention, control, or abatement of fire by a firefighter, acting under color of his or her official authority; knowingly obstructs, impairs, or hinders the administration of medical treatment or emergency assistance by an emergency medical service provider or rescue specialist, acting under color of their official authority; or knowingly obstructs, impairs, or hinders the administration of emergency care or emergency assistance by a volunteer, acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.

(b) To assure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force, physical interference, or an obstacle, such person knowingly obstructs, impairs or hinders any such animal.

(c) A person shall not be charged with the offense described in subsection (a) of this section because the person remained silent or because the person stated a verbal opposition to an order by a government official.

(d) It is not a defense to a prosecution under this section that the peace officer was acting in an illegal manner, if the peace officer was acting under color of their official authority. A peace officer acts "under color of their official authority" if, in the regular course of assigned duties, he or she makes a judgment in good faith based on surrounding facts and circumstances that he or she must act to enforce the law or preserve the peace.

(e) For purposes of this section, unless the context otherwise requires:

- (1) "Emergency medical service provider " means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as an emergency medical service provider.

9.24.040 - Cruelty to certified police working dog.

(a) It shall be unlawful for any person to knowingly, recklessly, or with criminal negligence, torment unnecessarily or to cruelly beat, mutilate, injure, harm or disable a certified police working dog.

(b) The court shall order any person convicted of cruelty to a certified police working dog to make restitution to the agency or person owning the certified police working dog for all expenses, including any immediate and ongoing veterinary expenses related to the incident and replacement costs for the certified police working dog, if it is permanently disabled or killed as a result of the incident.

(c) For the purposes of this section, "certified police working dog" means a dog that has current certification from a state or national agency or association that certifies police working dogs, and that is part of a working law enforcement team.

(d) Any person with a prior conviction of this section must be prosecuted pursuant to C.R.S. § 18-9-202 as same may be amended from time to time.

9.24.050 - False reporting to authorities.

(a) It shall be unlawful for any person to knowingly:

- (1) Cause by any means, including but not limited to activation, a false alarm of fire or other emergency or a false emergency exit alarm to sound or to be transmitted to or within a fire department, ambulance service, law enforcement agency, or any other government agency responsible for emergencies involving danger to life or property;
- (2) Prevent by any means, including but not limited to deactivation, a legitimate fire alarm, emergency exit alarm, or other emergency alarm from sounding or from being transmitted to or within a fire department, ambulance service, law enforcement agency, or any other government agency responsible for emergencies involving danger to life or property;
- (3) Make a report or knowingly cause the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur;
- (4) Make a report or knowingly cause the transmission of a report to law enforcement authorities to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false; or
- (5) Knowingly provide false identifying information to law enforcement authorities.

(b) For purposes of this section, "identifying information" means a person's name, address, birth date, social security number or driver's license or Colorado identification number.

9.24.060 - Impersonation of police officer.

(a) It shall be unlawful, except upon the authorization of the town manager or the manager's designee for any person other than a police officer of the town to wear the uniform or any insignia of a police officer of the town or any other insignia or any colorable imitation of such adopted and worn by police officers of the town.

(b) It shall be unlawful for any person other than a police officer of the town, to, in any manner, represent him or herself to another as a police officer of the town.

9.24.070 - Counterfeit insignias.

It shall be unlawful for any person to counterfeit, imitate, or cause to be counterfeited, or imitated, any insignia of office used by the police.

9.24.080 - Impersonation of town official, employees.

It shall be unlawful for any person not a town official or town employee to falsely represent him or herself to be a town official or an employee of the town or to perform any act in the false capacity as a town official or employee.

9.24.090 - Unlawful interference—Public buildings.

(a) It shall be unlawful for any person to so conduct him or herself at or in any public building owned, operated or controlled by the town, the state or any of its political subdivisions, as to willfully deny to any public official, public employee or any invitee on such premises, the lawful rights of such official, employee or invitee to enter, use the facilities of or leave any such public building.

(b) It shall be unlawful for any person at or in any such public building to willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, coercion or intimidation or by force and violence or threat thereof.

(c) It shall be unlawful for any person to willfully refuse or fail to leave any such public building upon being requested to do so by an administrative officer or such officer's designee charged with maintaining order in such public building, if such person has committed, is committing, threatens to commit or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in such public building.

(d) It shall be unlawful for any person at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building to willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other such areas designated for the use of the body of official conducting such meeting or session, or by any act designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of the duties of such meeting or session.

(e) It shall be unlawful for any person, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official act or in any public building, to willfully impede, disrupt or hinder the normal proceedings of such body or official.

9.24.100 - Interference with staff, faculty, or students of educational institutions.

(a) It shall be unlawful for any person on or near the premises, or facilities of any educational institution, to willfully deny to students, school officials, employees, and invitees:

- (1) Lawful freedom of movement on the premises;
- (2) Lawful use of the property or facilities of the institution;
- (3) The right of lawful ingress and egress to the institution's physical facilities.

(b) It shall be unlawful for any person on the premises of any educational institution, or at or in any building or other facility being used by any educational institution, to willfully impede the staff or faculty of such institution in the lawful performance of their duties or willfully impede a student of the institution in the lawful pursuit of his educational activities through the use of restraint, abduction, coercion, or intimidation or when force and violence are present or threatened.

(c) It shall be unlawful for any person to willfully refuse or fail to leave the property of or any building, or other facility, used by any educational institution, upon being requested to do so by the chief administrative officer, his designee charged with maintaining order on the school premises and in its facilities, or a dean of such educational institution, if such person is committing, threatens to commit, or incites others to commit any act which would disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions of the institution.

(d) It shall be an affirmative defense that the defendant was exercising their right to lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor, or any employee thereof.

(e) It shall be unlawful for any person to knowingly make or convey to another person a credible threat to cause death or to cause bodily injury with a deadly weapon against:

- (1) A person the actor knows or believes to be a student, school official, or employee of an educational institution; or
- (2) An invitee who is on the premises of an educational institution.
- (3) For purposes of this subsection, "credible threat" means a threat or physical action that would cause a reasonable person to be in fear of bodily injury with a deadly weapon or death.

9.24.110 - Obstructing government operations.

(a) It shall be unlawful for any person to intentionally obstruct, impair, or hinder the performance of a governmental function by a public servant, by using or threatening to use violence, force, or physical interference or obstacle.

- (1) It shall be an affirmative defense that:
 - a. The obstruction, impairment, or hindrance was of unlawful action by a public servant;
 - b. The obstruction, impairment, or hindrance was of the making of an arrest; or
 - c. The obstruction, impairment, or hindrance of a governmental function was by lawful activities in connection with a labor dispute with the government.

9.24.120 - Failure to pay sex offender fees.

It shall be unlawful for any person required to register with the police department as a sex offender to fail to pay the required registration and re-registration fees.

9.24.125- Abuse of public records.

(a) It shall be unlawful for any person to knowingly make a false entry in or falsely alter any public record; or

(1) Knowing the person lacks the authority to do so, such person knowingly destroys, mutilates, conceals, removes or impairs the availability of any public record; or

(2) Knowing the person lacks the authority to retain the record, the person refuses to deliver up a public record in the person's possession upon proper request of any person lawfully entitled to receive such record; or

(3) Knowing the person has not been authorized by the custodian of the public record to do so knowingly alters any public record.

(b) As used in this section the term "public record" includes all official books, papers, or records created, received, or used by or in any town office or department.

CHAPTER 9.28 – OFFENSES AGAINST PUBLIC DECENCY

9.28.10 - Public indecency.

(a) It shall be unlawful for any person knowingly to perform any of the following in a public place or place within public view:

(1) An act of sexual intercourse; or

(2) A lewd exposure of a person's intimate parts, which means the external genitalia, or the perineum, or the anus, or the buttocks, or the pubis, or a person's breast done with the intent to arouse or to satisfy the sexual desire of any person;

(3) A lewd fondling or caress of the body of another person;

(4) A knowing exposure of the person's genitals to the view of a person under circumstances in which such conduct is likely to cause affront or alarm to the other person; or

(5) Urination or defecation in any public or private place other than in or upon a toilet facility provided for such purpose.

9.28.020 - Prostitution prohibited.

It shall be unlawful for any person to engage in prostitution. A person engages in prostitution when the person performs, offers, or agrees to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with any person other than such person's spouse in exchange for money or other thing of value.

9.28.030 - Soliciting for prostitution.

(a) It shall be unlawful for any person to solicit for prostitution. A person solicits for prostitution if the person:

- (1) Solicits another for the purpose of prostitution;
- (2) Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- (3) Directs another to a place knowing such direction is for the purpose of prostitution.

9.28.040 - Pandering.

It shall be unlawful for any person to pander. A person panders when, for money or other thing of value, the person knowingly arranges a situation in which a person may practice prostitution.

9.28.050 - Keeping a place of prostitution.

(a) It shall be unlawful for any person to keep a place of prostitution. Any person who has or exercises control over the use of any premises which offers seclusion or shelter for the practice of prostitution, keeps a place for prostitution if the person:

- (1) Knowingly grants or permits the use of such place for the purpose of prostitution; or
- (2) Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which the person should reasonably know that the place is being used for purposes of prostitution.

9.28.060 - Patronizing a prostitute.

(a) It shall be unlawful for any person to patronize a prostitute. Any person who performs any of the following patronizes a prostitute:

- (1) Engages in an act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with a prostitute; or
- (2) Enters or remains in a place of prostitution with the intent to engage in an act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with a prostitute.

9.28.070 - Invasion of privacy.

It is unlawful for any person to look into the windows, doors, skylights, or other openings of any person's domicile or to defeat or attempt to defeat the privacy preserving purpose of any device or structure, without the permission of the person being observed, the owner or possessor of the domicile, or their agents:

- (1) By concealing oneself in such manner to prevent detection by the person being observed;
- (2) From within the real property surrounding the domicile; or
- (3) From without the real property surrounding the domicile with the use of magnifying devices such as binoculars, monoculars, telescopes, spy glasses, or other vision enhancing devices.

CHAPTER 9.32 - OFFENSES INVOLVING DRUGS, ALCOHOL

9.32.010 - Possession of marijuana.

(a) For the purposes of this chapter, the following words and phrases shall mean as set forth unless the context specifically specifies otherwise:

- (1) Marijuana means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate.

Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant, which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

- (2) Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as but not limited to edible products, ointments and tinctures.
- (3) Openly means occurring or existing in a manner that is unconcealed, undisguised or obvious.
- (4) Publicly means occurring or existing in a public place, or occurring or existing in any outdoor location where the use or consumption of marijuana is clearly observable by the naked eye from a public place.
- (5) Public place means a place to which the public or a substantial number of the public have access, and includes, but is not limited to, streets, sidewalks, and highways, transportation and recreation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings or facilities.

(b) It shall be unlawful for any person to possess one ounce or less of marijuana or marijuana products unless such person is 21 years of age or older or otherwise permitted by law to possess marijuana or marijuana products.

(c) It shall be unlawful for any person, except as specifically authorized by law to: (i) sell one ounce or less of marijuana or marijuana products to any person, or (ii) to permit the transfer of marijuana or marijuana products with or without remuneration to any person under the age of 21 years, or (iii) to permit any person under the age of 21 years to purchase, possess, use, transport, grow or consume marijuana or marijuana products.

(d) It shall be unlawful for any person to (i) openly and publicly consume marijuana, or (ii) to possess, use, sell, grow, distribute, display or consume marijuana or marijuana products upon or within any park, athletic field, playground, recreation area, golf course, aquatic center, camp ground, open space, trail, parking lot, or building or facility, owned, occupied or controlled by the town.

(e) It shall be unlawful for any person to consume, use, display, transfer or distribute marijuana within 1,000 feet of any public or private elementary school, middle school, junior high school or high school when such person is upon any street, sidewalk or other property owned or controlled by the town.

(f) It shall not be an offense under subsection (d) (i) of this section if the consumption of marijuana is occurring on private residential property behind the rear building line of the principal structure and the person consuming the marijuana is (i) an owner of the property, or (ii) a person who has a leasehold interest in the property, or (iii) any person who has been granted

express or implied permission to consume marijuana on the property by the owner or lessee of the property.

9.32.020 - Drug paraphernalia definitions.

(a) For the purposes of this chapter, the following words and phrases shall mean as set forth unless the context specifically specifies otherwise:

- (1) Controlled substance means a drug, substance or immediate precursor included in Schedules 1 through V, as set forth in the Uniform Controlled Substances Act of 2013 (C.R.S. § 18-18-101 et seq.) as same may be amended from time to time.
- (2) Drug paraphernalia means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance. The term "drug paraphernalia" includes, but is not limited to:
 - a. Testing equipment used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances.
 - b. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
 - c. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining cannabis.
 - d. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
 - e. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
 - f. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
 - g. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish or hashish oil into the human body, such as:
 1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 2. Water pipes;
 3. Carburetion tubes and devices;
 4. Smoking and carburetion masks;
 5. Roach clips; defined as objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 6. Miniature cocaine spoons and cocaine vials;
 7. Chamber pipes;
 8. Carburetor pipes;

9. Electric pipes;
 10. Air driven pipes;
 11. Chillums;
 12. Bongs; or
 13. Ice pipes or chillers.
- (3) Marijuana accessories , as defined in section 16 of article XVIII of the Colorado Constitution and used in this section means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounded, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.
 - (4) Drug paraphernalia does not include marijuana accessories if possessed or used by any person, 21 years of age or older or who is otherwise lawfully permitted to possess or use marijuana.

9.32.030 - Possession, manufacture, sale or delivery of drug paraphernalia.

- (a) It shall be unlawful for any person to knowingly possess drug paraphernalia.
- (b) Manufacture, sale, or delivery of drug paraphernalia. It shall be unlawful for any person to sell or deliver, possess with intent to sell or deliver, manufacture with intent to sell or deliver equipment, products, or materials, knowing that such equipment, products, or materials constitute drug paraphernalia.
- (c) Determination considerations. In determining whether an object constitutes drug paraphernalia, the court may consider, in addition to all other relevant factors, the following:
 - (1) Statements by an owner or by anyone in control of the object concerning its use;
 - (2) Proximity of the object to any controlled substance;
 - (3) The existence of any residue of controlled substances on the object;
 - (4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person knows that it will be delivered to persons who he knows could use the object to facilitate a violation of this section;
 - (5) Instructions, oral or written, provided with the object concerning its use;
 - (6) Descriptive materials accompanying the object which explain or depict its use;
 - (7) National or local advertising concerning the object's use;
 - (8) The manner in which the object is displayed for sale;
 - (9) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;
 - (10) The existence and scope of legal uses for the object in the community;
 - (11) Expert testimony concerning its use.

(d) In the event a case brought pursuant to this section is tried before a jury, the court shall hold an evidentiary hearing on issues raised pursuant to this subsection.

9.32.040 - Inhaling toxic vapors.

(a) It shall be unlawful for any person to intentionally smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, or possess, buy, or use any such substance for the purpose of violating or aiding another to violate this section. This section does not apply to the inhalation of anesthesia for medical or dental purposes.

(b) As used in this section, the term "toxic vapors" includes but is not limited to the following substances or products containing such substances: Alcohols (methyl, isopropyl, propyl or butyl); aliphatic acetates (ethyl, methyl, propyl, or methyl collective acetate); acetone; benzene; carbon tetrachloride; cyclohexane; freons (freon 11 and freon 12); hexane; methyl ethyl ketone; methyl isobutyl ketone; naphtha; perchloroethylene; toluene; trichloroethane; or xylene. Evidence that a container lists one or more of these substances shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof.

9.32.050 – Unlawful use of a controlled substance.

Except as is otherwise provided for offenses concerning marijuana and marijuana concentrate as set forth in C.R.S. §§ 18-18-406 and 406.5, it shall be unlawful for any person to use any controlled substance, as defined by C.R.S. § 18-18-102 (5), except when it dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense the controlled substance for bona fide medical needs.

9.32.060 – Unlawful possession of a controlled substance.

Except as authorized by part 1 or 3 of article 280 of title 12, C.R.S., part 2 of article 80 of title 27, C.R.S., section 18-18-428 (1) (b) C.R.S., or part 2 of article 18, C.R.S., it is unlawful for any person to knowingly possess any material, compound, mixture, or preparation that contains not more than four grams of a controlled substance listed in schedule I or II of part 2 of article 18, C.R.S., or any quantity of a controlled substance listed in schedule III, IV or V of part of article 18, C.R.S., except as to possession of flunitrazepam, gamma hydroxybutyrate, or ketamine, or where possession of such substances constitutes a fourth or subsequent violation of this offense.

CHAPTER 9.36 - ALCOHOL AND TOBACCO OFFENSES

9.36.010 - Alcohol definitions.

(a) As used within this chapter the following words shall mean as follows unless the context specifically specifies otherwise:

- (1) Alcoholic beverages or alcoholic liquors means malt, vinous, or spirituous liquors; except that "alcoholic beverages" and "alcoholic liquors" shall not include confectionery containing alcohol within the limits prescribed by C.R.S. § 25-5-410(1)(i)(II), as amended.

- (2) Fermented malt beverage means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof, in water containing not less than one-half of one percent and not more than three and two-tenths percent (3.2%) alcohol by weight; except that "fermented malt beverage" shall not include confectionery containing alcohol within the limits prescribed by C.R.S. § 25-5-410(1)(i)(II), as amended.

9.36.020 - Consumption regulated.

(a) It shall be unlawful for any person to possess an open container of or consume any fermented malt or alcoholic beverages in public, except upon premises licensed or permitted under the provisions of C.R.S. tit. 44, art. 3, 4 or 5, as amended.

(b) For the purpose of this section "open container" means any container which is either opened so that the contents can be removed or upon which the bottle cap seal has been broken.

(c) For the purpose of this chapter, "in public" means:

- (1) In or upon any public highway, street, alley, walk, parking lot, building, park or other property or place which is owned or leased by the town or other governmental entity, whether in a vehicle or not; and
- (2) In or upon those portions of any private property upon which the public has express or implied license to enter or remain. If such express or implied license is subject to time or conduct restrictions, consumption or prohibited possession of fermented malt alcoholic beverages on such property shall be deemed to be "in public" even if the entry or remaining on the property is in violation of time or conduct restrictions.

(d) For the purposes of this section evidence that a container, or a similar container, if the label is missing or unreadable, lists as contents any fermented malt or alcoholic beverages is prima facie evidence that the substance in such container is fermented malt or alcoholic beverages.

(e) It is an affirmative defense to a charge of violating this section that the owner of the property involved or the owner's authorized agent gave prior express written permission to the accused or to members of the accused's group or entity to perform the acts complained of.

(f) The town manager or manager's designee may, as provided below, grant express written permission to persons to consume fermented malt or alcoholic beverages on town-owned property for the following special functions: Athletic events; artistic events; cultural events; receptions; street closure events; or civic events.

- (1) The town manager shall adopt an administrative directive specifying the town properties or portions thereof upon which fermented malt or alcoholic beverages may be consumed.
- (2) The town manager shall grant such permission to persons applying therefor if, considering the type of function and type of alcohol to be served, the manager finds that:
 - a. The application to the town manager was filed not later than 48 hours prior to the date of the event.
 - b. The time, location and duration of the function are not likely to significantly interfere with public traffic or services, including public safety services.
 - c. The number and concentration of participants at the function are not likely to result

in crowds exceeding limitations of the town fire code or create a nuisance resulting in inconvenience to the residents of the surrounding neighborhood.

- d. Procedures are proposed that are likely to ensure that underage persons and persons under the influence of alcohol will not obtain or consume fermented malt or alcoholic beverages served at the function.
 - e. Procedures are proposed that are likely to secure and supervise the area and the participants during the function.
 - f. The applicant agrees to provide sandwiches and other food services at the location during the time consumption is permitted in an amount sufficient to serve the persons anticipated to attend.
 - g. The applicant agrees to be personally responsible for and provide financial guaranties to ensure the cleaning, trash disposal or repairs necessary as a result of the event for which the permission was granted. The town manager shall determine the amount of required financial guaranty based upon the town facility involved, the duration of the event, the number of persons anticipated to attend, the type of beverage to be served, the failure of the applicant to clean or repair town property in conjunction with past events and the financial resources of the applicant.
 - h. The applicant agrees, to the extent permitted by law, to indemnify and hold harmless the town , its employees and agents for all liability claims arising out of the event and to provide general liability insurance, with minimum liability limits equal to that established by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., as amended, to guarantee indemnification. The town manager may waive or reduce this insurance requirement if the applicant affirmatively establishes that the risk of liability to the town as a result of the function does not present the town with any significant additional risk of liability.
- (3) The town manager shall deny permission where:
- a. There is insufficient data presented by the applicant to make the findings required in subsection (f)(2) of this section.
 - b. Approval would be detrimental to the public safety, health, morals, order or welfare by reason of the nature of the event, the likelihood that the event would create a public nuisance, an unreasonable risk of violence or public disorder or result in the consumption of alcoholic beverages by underage persons or, alternatively, that the proximity of the event to schools or the failure of the applicant to conduct a past event in compliance with this section and the applicable rules and regulations.
 - c. Another event has previously been scheduled for the same location on the same date and time.
 - d. The event would unreasonably interfere with normal activities and customary and general use and enjoyment of the facility.
- (4) An applicant who has been denied permission or who claims to be otherwise aggrieved by the town manager's decision concerning an application may make written request to the town manager's office for a hearing on the application. Such request shall be made within seven days of the postmarked date of the town manager's decision. Within ten days of receipt of such a request, the town manager

shall designate an independent hearing officer who shall conduct a hearing at which the applicant and the town may present such evidence and information as may be relevant to the application.

- (5) The granting of permission by the town manager under this section does not relieve the applicant from the responsibility of obtaining any license or special permit as may be required by state law or town ordinances.

(g) This section is not intended to create a right of use or possession of town owned or leased property in any person or group; rather, this section relates only to permission to consume malt, vinous or spirituous liquor or fermented malt beverage by an individual or group who otherwise has the lawful right to use or possess town-owned property pursuant to town policy.

9.36.030 - Underage persons alcoholic beverages prohibitions.

(a) It shall be unlawful for any person to sell, serve, give away, dispose of, exchange, deliver, or permit the sale, serving, giving or procuring of any fermented malt or alcoholic beverages to or for any person under the age of 21.

(b) It shall be unlawful for any person under 21 years of age to obtain or attempt to obtain fermented malt or alcoholic beverages by misrepresentation of age or by any other method in any place where fermented malt or alcoholic beverages are sold.

(c) It shall be unlawful for any person under 21 years of age to possess or consume alcoholic or fermented malt beverages. Illegal possession or consumption of alcoholic or fermented malt beverages is a strict liability offense.

(d) It shall be unlawful for any person under the age of 21 to make false statements or to furnish, present or exhibit any fictitious or false registration card, identification card, or note or other document or documents issued to a person other than the person presenting the same, for the purpose of procuring the sale, gift or delivery of fermented malt or alcoholic beverages.

(e) It shall be unlawful for any person under the age of 21 to engage or utilize the services of another person, whether for remuneration or not, to procure for such person under the age of 21 fermented malt or alcoholic beverages.

(f) It shall be unlawful for any person, whether for remuneration or not, knowingly to procure for any person under the age of 21 fermented malt or alcoholic beverages.

(g) As used within this section, the following words shall mean as set forth below unless the context clearly specifies otherwise:

- (1) Establishment means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence, and any real property, including buildings and improvements, connected therewith, and shall also include any members, employees and occupants associated therewith.
- (2) Possession of alcoholic or fermented malt beverages means that a person has or holds any amount of alcoholic or fermented malt beverages on his/her person, or that a person owns or has custody of, or has alcoholic or fermented malt beverages within his/her immediate presence and control.
- (3) Private property means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public and privately owned real property which is not open to the public. "Private property"

shall not include:

- a. Any establishment which has or is required to have a liquor license or permit pursuant to C.R.S. tit. 44, art. 3, 4 or 5;
- b. Any establishment which sells alcoholic or fermented malt beverages or upon which alcoholic or fermented malt beverages are sold; or
- c. Any establishment which leases, rents or provides accommodations to members of the public generally.

(h) It shall be an affirmative defense to the offense described in subsection (c) of this section that the alcohol or fermented malt beverage was possessed or consumed by a person under 21 years of age under the following circumstances:

- (1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcohol or fermented malt beverage was possessed or consumed with the consent of his/her parent or legal guardian who was present during such possession or consumption; or
- (2) When the existence of alcohol or fermented malt beverages in a person's body was due solely to the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes.

(i) The possession or consumption of alcohol or fermented malt beverages shall not constitute a violation of this section if such possession or consumption takes place for religious purposes protected by the First Amendment of the United States constitution.

(j) Prima facie evidence of a violation of subsection (c) of this section shall consist of:

- (1) Evidence that the defendant was under the age of 21 years and possessed or consumed alcoholic or fermented malt beverages; or
- (2) Evidence that the defendant was under the age of 21 years and manifested any of the characteristics commonly associated with alcoholic or fermented malt beverage intoxication or impairment.

(k) During any trial for violation of this section, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic or fermented malt beverages. A label which identifies the contents of any bottle, can or other container, as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol," or "liquor" shall constitute prima facie evidence that the contents of the bottle, can, or other container was composed in whole or in part of alcoholic or fermented malt beverages.

(l) In any judicial proceeding concerning a charge under subsection (c) of this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva, or urine for the presence of alcohol and of the design and operation of certified devices for testing a person's blood, breath, saliva or urine for the presence of alcohol. This subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection shall preclude a

defendant from offering evidence concerning the accuracy of testing devices.

9.36.040 - Underage person's tobacco restrictions and prohibitions.

(a) Definitions. For purposes of this section the following words shall mean as defined unless the context specifies otherwise:

- (1) Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:
 - a. Any roll of tobacco wrapped in paper or in any substance not containing tobacco;
 - b. Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by consumers as a cigarette; or
 - c. Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1)a.
 - d. The term "cigarette" includes roll-your-own, meaning any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.
- (2) Tobacco products are defined as: Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking.

(b) It shall be unlawful for anyone under the age of 18 years to purchase, possess, consume or use either by burning, ingesting, absorbing or chewing any cigarettes or tobacco products.

(c) It shall be unlawful for any person to knowingly furnish to any person who is under 18 years of age, by gift, sale, or any other means, any cigarettes or tobacco products.

(d) Any person who sells, or offers to sell any cigarettes or tobacco products, shall display a warning sign as specified in this section. The warning shall be displayed in a prominent place within the establishment, and shall have a minimum height of three inches and a width of six inches, and shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO PURCHASE CIGARETTES OR TOBACCO PRODUCTS.

(e) That any person under the age of 18 is/was in possession of any package or container with labeling indicating that such contains cigarettes or tobacco products shall be prima facie evidence of a violation of subsections (b) and (c) herein.

(f) It shall be unlawful for any person who sells or offers to sell any cigarettes or tobacco products to store, display, or sell such cigarettes or tobacco products in any area or means that is accessible for use by the public without assistance from the seller of such goods or products. This subsection shall not be construed to preclude or prohibit the storage or display of cigarettes or tobacco products in an area viewable by the public so long as such items are not accessible to

the public without assistance from the seller.

CHAPTER 9.40 - WEAPONS

9.40-010 - Definitions.

(a) As used in this chapter, the following shall mean as defined herein unless otherwise specifically provided:

Blackjack means any billy club, sand club, sandbag, sap gloves or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

Crossbow means any device resembling a firearm in configuration, having a bow or similar device mounted perpendicularly to a stock, grip or frame, and usually equipped with a winch or similar device which draws back the bowstring and cocks the weapon and which fires an arrow, bolt, stone or other projectile from a groove or depression in the stock, grip or frame by the manipulation of a trigger or other similar mechanism.

Firearm means any handgun, revolver, pistol, rifle, shotgun or other instrument or device from which any shot, bullet or other missile can be discharged.

Gas gun means any device designed for projecting gas-filled projectiles which release their contents after being projected from the device and includes projectiles designed for use in such device.

Handgun means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged and the length of the barrel, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

Illegal weapon means a blackjack, gas gun, or metallic knuckles.

Knife means any dagger, knife, bayonet, straight razor, dirk, machete, stiletto, sword or sword cane with a blade over three and one-half inches in length, or any other dangerous instrument designed to inflict cutting, stabbing or tearing wounds; but, as used in this article, does not include a knife or hatchet of the type customarily used in hunting, fishing or camping, when such is being carried for sporting use; and does not include any instruments being used in pursuance of a lawful home use, trade, occupation or profession or otherwise being lawful under federal or state statutes, or being used as an item of display or collector's item in any home or place of business.

Mechanical gun means an air, spring operated or blow gun that discharges pellets, BB shots, paint balls, arrows or darts and includes but is not limited to BB guns, spring guns, pellet guns, paint ball guns or other similar devices.

Metallic knuckles means a weapon worn on the hand, consisting of a metal strip or chain with holes or links into which the fingers fit.

Nunchaku means an object consisting of two sticks, clubs, bars, or rods to be used as handles, connected by a rope, cord, wire or chain which is in the design of a weapon used in connection with the practice of a system of self-defense.

Throwing star means a disk having sharp radiating points or any disk-shaped bladed object which is hand-held and thrown and which is in the design of a weapon used in connection with

the practice of a system of self-defense.

Weapon means any instrument or device specifically designated for use in attack or defense in combat or fighting, and includes, but is not limited to, those enumerated in this section.

9.40.020 - Prohibited use or possession of weapons; exception.

(a) It shall be unlawful for any person to:

- (1) Knowingly and unlawfully aim a firearm at another person;
- (2) Recklessly or with criminal negligence discharge a firearm or shoot a bow and arrow;
- (3) Knowingly set a loaded gun, trap, or device designed to cause an explosion upon being tripped or approached, and leave it unattended by a competent person immediately present;
- (4) Have in his or her possession an illegal weapon;
- (5) Have in his or her possession a firearm while the person is under the influence of intoxicating liquor or of a controlled substance, as defined in C.R.S. § 18-18-102; or
- (6) Knowingly aim, swing, or throw a throwing star or nunchaku at another person, or knowingly possess a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class.

9.40-030 - Unlawful open carry of deadly weapons in town buildings, parks, trails, open spaces or recreation areas.

(a) It shall upon posting as required by state statute be unlawful for any person to openly carry any deadly weapon upon the grounds of or within any building or facility owned or leased by the town, or any department or agency thereof.

(b) It shall upon posting as required by state statute be unlawful for any person to openly carry any deadly weapon within or upon any town park, trail, athletic field, campground, aquatic center, recreation area or open space.

(c) Nothing herein shall be deemed to affect or impair in any way the authority of any private or public property owner other than the town to prohibit the open carrying of deadly weapons into or upon the property of such persons.

9.40.040 - Unlawfully carrying a concealed weapon; unlawful possession of weapons.

(a) It shall be unlawful for any person to carry a concealed weapon or possess weapons. A person commits the crime of unlawfully carrying a concealed weapon or possessing a weapon, when a person knowingly:

- (1) Carries a knife concealed on or about his or her person;
- (2) Carries a firearm concealed on or about his or her person; or
- (3) Without legal authority, carries, brings, or has in such person's possession, a firearm or any explosive, incendiary, or other dangerous device on the property of or within any building in which the chambers, or offices of the board of trustees are located, or in which a board of trustee hearing or meeting is being or is to be conducted, or in which the official office of any member, officer, or employee of the town is located.

(b) It shall not be an offense if the defendant was:

- (1) A person in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying;
- (2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of such person or another person or property while traveling; or
- (3) A person who, at the time of carrying a concealed weapon, held a valid permit to carry a concealed handgun, or a temporary emergency permit issued pursuant to state law, except that it shall be an offense under this section if the person was carrying a concealed handgun in violation of the provisions of C.R.S. § 18-12-214.

9.40.050 - Defacing or possession of defaced firearm.

(a) It shall be unlawful for any person to knowingly:

- (1) Remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark of a firearm; or
- (2) Possess a firearm, the manufacturer's serial number of which, or other distinguishing number or identification mark, has been removed, defaced, altered, or destroyed, except by normal wear and tear.

9.40-060 - Exception for law enforcement and military personnel.

Nothing within this article shall be construed to forbid any enforcement officer of the law enforcement agencies of the United States government, municipality, or the state, or any sheriff or his or her deputies, or any regular, special or ex officio peace officer as defined by state law, or members of the United States armed forces, Colorado National Guard or Reserve Officer Training Corp or any other person specifically authorized by state or federal law from carrying, wearing, concealing or using such weapon as shall be necessary in the proper discharge of his or her duties, or as otherwise permitted by law.

Section 2. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Violations of this ordinance shall be punishable in accordance with Section 1.16.010 of the Municipal Code of the Town of Firestone, Colorado.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN FULL this __th day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, CMC, Town Clerk

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 11.f

Discussion/Action

Meeting Date: April 27, 2022

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Selection of a Mayor Pro Tem

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS