MONUMENT TOWN COUNCIL
REGULAR MEETING AGENDA
MONDAY, OCTOBER 7, 2024 – 6:30 PM
Monument Town Hall - Council Chambers
645 Beacon Lite Road - Monument, CO 80132
Participate Via Microsoft Teams: https://www.townofmonument.org/260/Town-Council

1. Call to Order, Pledge of Allegiance, Roll Call:

2. Disclosures of Conflicts of Interest:

a. Disclosures of Potential Conflicts of Interest - *(Bob Cole)*

b. Vote on Excluding Council Members With Potential Conflicts of Interest From Consideration, Discussion and Voting on Identified Matters - *(Bob Cole)*

3. Approval of the Consent Agenda:

a. Agenda - October 7, 2024

b. Meeting Minutes - September 16, 2024

c. Invoices Over $25K

d. Resolution No. 52-2024 - A Resolution to Approve a Contract with Fence Consulting Services Inc., for Fencing at the Monument Cemetery - *(Jeremiah Reichert)*

4. Executive Session(s):

a. Executive Session Pursuant to §24-6-402(4)(e), C.R.S., to Determine Positions Relative to Matters That May Be Subject to Negotiation, Developing Strategy for Negotiations, and Instructing Negotiators, Regarding Future Water System - *(Bob Cole)*

5. Presentation(s):

a. Monument Lake Trail Wildfire Mitigation Demonstration Project - *(Jonathan Bradley & Keith Worley)*

b. Veregy Energy Project - *(Madeline VanDenHoek)*

6. Ordinance(s): *Public Hearing(s) Required*

a. Ordinance No. 20-2024 - An Ordinance Amending Titles 3 and 5 Regarding Revenue and Finance, and Business Licenses and Regulations of the Monument Municipal Code - *(Douglas Stallworthy)*

b. Ordinance No. 22-2024 - An Ordinance Repealing and Readopting Chapters 3.12 and Section 5.12.010, and Adding Chapters 3.08, 3.09, 3.10, 3.11 and 3.13, and Section 5.12.000 of the Monument Municipal Code Regarding Revenue and Finance, and Business Licenses and Regulations - *(Steve Murray)*

7. Resolution(s):

8. Public Comment(s) For Items Not on the Agenda: *Individuals attending in person may raise their hand to indicate their desire to comment. Individuals attending via Teams may "raise their* *hand" digitally to comment via connected devices. Please lower your hand when finished with your comments. Comments are limited to 3 minutes.*

9. Future Agenda Item Authorization(s):

10. Council Comment(s):

11. Executive Session:

a. Executive Session Pursuant to §24-6-402(4)(b), C.R.S. for a Conference with the Town Attorney for the Purpose of Receiving Legal Advice on Specific Legal Questions Regarding Special District Services - *(Bob Cole)*

12. Adjournment:

MONUMENT TOWN COUNCIL
REGULAR MEETING MINUTES
Tuesday September 16, 2024 – 6:30 PM
Monument Town Hall – 645 Beacon Lite Rd., Monument CO 80132
Hybrid Meeting – Remote Participation Via Teams

1. **Call to Order, Pledge of Allegiance, Roll Call:** Mayor LaKind called to order the regular meeting of the Monument Town Council and led those assembled in the Pledge of Allegiance. Proper notice of the meeting was posted for more than 24 hours in the designated posting locations. The following Council members were present for the meeting:

TOWN COUNCIL	TOWN STAFF
PRESENT:	Madeline VanDenHoek, Acting Town Manager
Mayor Mitch LaKind	Patrick Regan, Chief of Police
Mayor Pro Tem Steve King	Tina Erickson, Town Clerk
Councilmember Sana Abbott	Javon Quarles, Town Attorney
Councilmember Laura Kronick	Doug Stallworthy, Town Attorney
Councilmember Kenneth Kimple	Will Williams, Director of IT
Councilmember Jim Romanello	Dan Ungerleider, Director of Planning
Councilmember Marco Fiorito	Thomas Tharnish, Director of Public Works
ATTENDED REMOTELY: Jim Romanello	Steve Murray, Sr. Town Accountant
ABSENT WITH PRIOR NOTICE:	Laura Hogan, Director of Administration
ABSENT WITHOUT PRIOR NOTICE:	Sylvia Simpson, Deputy Town Clerk

2. **Disclosures of Conflicts of Interest:**
   a. Disclosures of Potential Conflicts of Interest
   b. Vote on Excluding Council Members with Potential Conflicts of Interest from Consideration, Discussions and Voting on Identified Matters.
      - None submitted.

3. **Approval of the Consent Agenda:**
   a. Agenda – September 16, 2024.
   b. Meeting Minutes – September 3, 2024
   c. Resolution No 51-2024 - A Resolution for the Town Council to Approve the Purchase and Installation of a New 3 – Phase Transformer to Supply Well #13.
   Kronick moved to approve the consent agenda as presented Abbott seconded the motion passed. 7 to 0

4. **Oath of Office**
   a. Chief Regan led Sergeant Leviot into his oath of office.

5. **Proclamations(s)**
   a. Creek Week was presented by Alli Schuch; Council proclaims September 28th to October 6th; Scheduled for Monument October 5th; and Fiorito read the proclamation.

6. **Presentations (s)**
   a. Proposed 2025 Budget presented by Steve Murray; Information in Council packet.
   Questions of funding for expenses in supplemental projects; Council request priority list of expenditures; Fiorito request line item for renewal water options;

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Question for Police officers staffing and expenses – Chief Regan responded, Kimple request Council pay be tabled; and Questions regarding grants – Interim City Manager responds.

7. **Liquor License Authority**
    a. Festival Application for Colorado Brewers Group LLC for Bines and Brews Festival for Event to Be Held at Limbach Park. Erickson presented the Festival Application as included in the council packet. LaKind opened the public hearing. No citizens made comments. LaKind closed the public hearing. Fiorito moved to approve the festival permit application. Abbott seconded the motion. Roll call vote was taken, and the motion passed 7 to 0.

8. **Council Reports (s)**
    a. Aging Program Funding – Councilmember Kronick.

9. **Ordinance(s):**
    a. <u>Ordinance No.20-2024 - An Ordinance Amending Titles 3 and 5 Regarding Revenue Finance, and Business Licenses and Regulations of the Monument Municipal Code.</u> Quarles presented Ordinance No. 21-2024 as included in the council packet. To conform with Charter. Review section 324 later. Provision for Title 5 business license revocation; define who would hear compliance; hearing officer or Town Council. Hogan provided a response to hiring an independent hearing officer regarding business license revocation. LaKind opened the public hearing. No comment from the public was received. LaKind closed the public hearing. Fiorito moved to continue Ordinance No. 20-2024 to October 7, 2024. Kronick seconded the motion. Roll call vote was taken, and the motion passed 7 to 0.
    b. <u>Ordinance No.21-2024 - An Ordinance Modifying Notice and Publication Requirements.</u> Quarles presented Ordinance No. 21-2024 as included in the council packet. LaKind opened the public hearing. No comment from the public was received. LaKind closed the public hearing. Kronick moved to approve Ordinance No. 21-2024. Abbott seconded the motion. Roll call vote was taken, and the motion passed 7 to 0.

10. **Discussion Item(s):**
    a. Changes to Town Code Regarding Impervious Surfaces - Dan Ungerleider responds and suggests storm water study and comprehensive look.
    b. Council Compensation presented by Kronick – included in the council packet; provided study from CML; goal is to have ordinance for council compensation for 2025; no agreement for ordinance; table and have on next election ballot.

11. **Public Comment for Items Not on the Agenda:**
    a. None received.

12. **Future Agenda Item Authorization(s):** The Council authorized the following:
    a. Kimple request executive session for Loop/ NDS and budget.
    b. Kronick wants to discuss renewable water options.
    c. Discussion item for feedback with McGrady.
    d. Interim City Manager suggest study sessions.

13. **Council Comments:**
    a. Kronick - wants to thank staff for openness and a change in positive attitude.

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b. Kronick - regarding historical woman’s group.
c. King - drainage issues in home place ranch, sally court and saber court; Dan Ungerleider responds stating builders are willing to discuss matters.
d. LaKind - discussed Sally court developers failed to comply with drainage issues; open ditches and pipe laying visibly; property looks abandoned; hazardous; keep public out of area; use bond and have developer post another bond. Builders did attend the meeting but left early. Ungerleider will contact the developer.

14. Adjournment:

a. Fiorito moved to adjourn the meeting, the motion passed unanimously, the meeting was adjourned at 9:00 pm.

Respectfully Submitted,

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Sylvia Simpson, Deputy Town Clerk

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COLLINS | COLE
FLYNN | WINN | ULMER

Statement of Account

Collins Cole Winn & Ulmer, PLLC
165 S. Union Blvd, Suite 785
Lakewood, CO 80228

Town of Monument
645 Beacon Lite Road
Monument, Colorado 80132

Date: 09/25/2024
Matter: Town of Monument-General-20028-0001

Responsible Attorney: Split Attorney

Date	Activity	Due Date	Invoice Amount	Payments	Credit	Balance
Invoice #6750	Balance: $40,021.00					
09/24/2024	Invoice #6750	10/24/2024	$40,021.00			$40,021.00
Totals:			**$40,021.00**	**$0.00**	**$0.00**	**$40,021.00**

Matter: Town of Monument-Water-20028-0002

Responsible Attorney: Robert Cole

Date	Activity	Due Date	Invoice Amount	Payments	Credit	Balance
Invoice #6750	Balance: $2,327.00					
09/24/2024	Invoice #6750	10/24/2024	$2,327.00			$2,327.00
Totals:			**$2,327.00**	**$0.00**	**$0.00**	**$2,327.00**

Totals for all Client Matters:	**$42,348.00**	**$0.00**	**$0.00**	**$42,348.00**

To: Town Council

From: Jeremiah Reichert, Assistant Public Works Director

Through: Tom Tharnish, Director of Public Works,

CC: Madeline VanDenHoek – Interim Town Manager

RE: Justification and Recommendation for Cemetery Fence Repair and Upgrade

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BACKGROUND: Prior to 2023, one of the oldest sections of fence at Monument Cemetery ran along the east property line. In 2023, to screen the neighboring property from view and improve the overall aesthetic of the cemetery, Parks Department staff placed privacy slats in the chain link fence. During a high wind event earlier this year, portions of the fence were blown down – because of the compromised post moorings and recently added inserts. In the interest of public safety, the entire length of chain link fence on the east side was removed.

DISCUSSION: Plans to replace the fence will need to include an option that screens the view of the adjacent property and has a long life-expectancy with high wind resistance. The product selected is Bufftech brand molded fence, with a wood-look. A competitive RFP executed through BidNet bidding was completed with Fence Consulting Services identified as a qualified contactor and as the lowest responsive bidder. The Town is recommending Fence Consulting Services as the contractor to install this fence.

Pre-Existing – Damaged Fence (removed)

SimTek Sherwood®-Bufftech

Monument Town Hall
719.481.2954

645 Beacon Lite Road
Fax – 719.884.8011

Monument, CO 80132
www.townofmonument.org

FISCAL IMPACT: After the old fence was irrevocably damaged by wind, CIRSA paid $17,305.04 towards replacement of the fence. The remaining $19,419.81 of expense will be paid out of the Parks General Fund.

STAFF RECOMMENDATION: Staff will oversee the work performed and ensure completion and final payment by December 31th, 2024.

TOWN OF MONUMENT

RESOLUTION NO. 52-2024

A RESOLUTION TO APPROVE A CONTRACT WITH FENCE CONSULTING SERVICES INC., FOR FENCING AT THE MONUMENT CEMETERY

WHEREAS, the Town of Monument Public Works Department, has a need to install a new fence on the eastern property line at the Monument Cemetery resulting from wind damage, and;

WHEREAS, the Town of Monument, has filed an insurance claim with CIRSA and received payment in the amount of $17,305.04. and;

WHEREAS, the Town of Monument has available funds from the General Fund, with approved budget available, for the funding to complete work as described in the scope of work from the RFP process executed through BidNet, to upgrade the fence to wind standards for an additional $19,419.81;

WHEREAS, Fence Consulting Services is the most responsive, responsible lowest bidder for the project; and

WHEREAS, the projected not to exceed cost of this project is $36,724.85 from a combined appropriation of $17,305.04 from the CIRSA insurance claim, and $19,419.81 from the approved and available General Fund funds

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MONUMENT, COLORADO THAT:

The Town Council hereby approves a not to exceed $36,724.87 to be used towards a Cemetery fence repair and improvement, and the contract with Fence Consulting Services with the Town of Monument Public Works Department.

PASSED AND RESOLVED by the Town Council of the Town of Monument, El Paso County, Colorado, this 7th day of October 2024 by a vote of ___ for and ___ against.

TOWN OF MONUMENT

____
Mitch LaKind, Mayor

ATTEST:

____
Sylvia Simpson, Deputy Town Clerk

AGREEMENT BETWEEN

Town of Monument
and
Fence Consulting Services

THIS AGREEMENT ("Agreement") is made as of this 7th day of October, 2024, between the **Town of Monument**, a Colorado home rule municipality ("Owner"), with a mailing address of 645 Beacon Lite Road, Monument, CO 80132, and **Fence Consulting Services**, an S Corp with a mailing address of 10200 E. Girard Ave., Ste A111 ("Contractor"). The Owner and Contractor are sometimes referred to individually herein as a "Party" and collectively as the "Parties."

In consideration of the mutual covenants, agreements, conditions and undertakings hereinafter set forth, Owner and Contractor agree as follows:

Section 1. Scope of Work. Contractor shall perform all work in accordance with the Contract Documents as identified in Section 18 (Contract Documents) for Town of Monument 2024, including furnishing all construction plans and methods, construction management, labor, equipment and materials (generally referred to as the "Project"), and shall complete the Project, including any additional work authorized pursuant to Section 17, in accordance with the terms of this Agreement and the Contract Documents.

Section 2. Contract Price. Owner shall pay Contractor for the performance of work and completion of the Project the total price of Thirty-six thousand, seven hundred twenty-four dollars and eighty-five cents ($36,724.85) (the "Contract Price"), subject to certain adjustments as herein provided, in accordance with the bid proposal submitted by Contractor. The Contract Price may be adjusted (i) for changes in the Contract Documents or for extensions of time to complete performance, if approved by Owner and Contractor as specified in Section 17 (Appropriations; Change Orders); (ii) for any additional work authorized pursuant to Section 17 (Appropriations; Change Orders); and (iii) for certain changes in quantities, if bid on a unit-price basis in the bid proposal. All unit quantities requiring an adjustment of the Contract Price shall be verified by Project Manager, as defined in Section 16 (Project Manager).

Section 3. Progress Payments. Owner will make progress payments monthly on account of the Contract Price in accordance with partial payment applications prepared by Contractor for work performed during the last monthly period and which have been approved by Project Manager and Owner. Contractor shall submit partial payment applications for the last completed work period to Project Manager by the first (1^{st}) day of each month. Owner shall authorize progress payments for the amount approved by Project Manager and Owner under such partial payment applications on or before the fifteenth (15th) day of each month. Progress payments shall not constitute final acceptance of the Project. Owner may withhold progress payments if: (i) Contractor's performance is inadequate or defective and not remedied in accordance with Project Manager's directions; (ii) Contractor does not make prompt and proper disbursements to subcontractors on receipt of progress payments from Owner; (iii) Contractor does not promptly pay for materials, labor or equipment furnished on the Project; (iv) claims or liens are filed on the Project; (v) in Project Manager's opinion, Contractor's performance is not progressing satisfactorily or completion of the Project is jeopardized or delayed; or (vi) Owner has not been supplied with certificates of insurance as required by Section 12.g (Insurance).

~~Section 4.~~ **Retainage**. An amount equal to five percent (5%) of each progress ~~payment made on the Contract Price shall be retained by Owner. Such retainage of the Contract Price shall be held by Owner until the Project is completed and finally accepted by Owner in accordance with the provisions hereof. Owner shall pay the full amount of such retainage to Contractor within sixty (60) days of final completion and acceptance of the Project, except to the extent of any claims filed pursuant to Section 38-26-107, C.R.S. Any release of retainage to Contractor or a subcontractor prior to final payment shall, in addition to any other requirements of the Contract Documents, require written approval from the surety furnishing bonds pursuant to Section 13 (Performance, Payment and Warranty Bonds).~~

Section 5. **Final Payment**.

a. Upon completion of the Project and Contractor's submittal of notice thereof to Project Manager and Owner, Project Manager shall inspect the Project and reject any portion of performance not in conformity with the Contract Documents. Defective materials, equipment or work shall be remedied immediately by Contractor before final payment. Owner shall make final payment to Contractor within thirty (30) days after (i) final acceptance of performance by Owner as specified in Section 6 (Final Acceptance) and (ii) receipt of Project Manager's confirmation to Owner that the Project has been completed satisfactorily. Final payment shall not, however, be due until Contractor has delivered to Owner a complete release of all claims or liens against the Project and has produced satisfactory receipts, waivers or lien releases indicating final and total payment to all subcontractors and persons who have furnished materials, labor and equipment on which a lien or claim might potentially be filed in a form acceptable to Owner. **Owner shall, no later than ten (10) days before final payment is made, publish a notice of final payment at least twice in a legal newspaper of general circulation in any county where the work was contracted for or performed pursuant to Section 38-26-107, C.R.S**.

b. By making final payment, Owner waives all claims against Contractor, except those expressly declared to Contractor in writing prior to final payment or those arising out of: (i) defective performance appearing after final acceptance; (ii) performance that fails to comply with the Contract Documents, unless expressly waived by Owner in writing; (iii) outstanding claims of any nature, including but not limited to claims for property damage or personal injury arising during the construction period or liens or claims against the Project; or (iv) Contractor's failure to execute any warranty, guarantee or bond or to provide insurance or other defense and indemnification required by the Contract Documents. By accepting final payment, Contractor waives all claims against Owner, except those expressly declared to Owner in writing and received by Owner prior to final payment. Notwithstanding the foregoing, Contractor shall work with Owner in good faith to resolve any claims it may have prior to final payment being made.

Section 6. Final Acceptance.

a. Final acceptance of the Project shall follow inspection and approval of Contractor's performance by Project Manager, along with inspection by appropriate manufacturers' representatives and governmental officials pursuant to local, State and federal requirements as necessary. Owner shall have the right to determine the acceptability of Contractor's performance and conformance with the Contract Documents, which determination shall be conclusive and binding upon Contractor. Final acceptance by Owner is subject to the provisions of Section 5 (Final Payment) and in no manner affects or releases any warranty or guarantee with Contractor or manufacturers or suppliers of Project equipment or materials.

b. When presented for final acceptance, the Project shall be delivered to Owner in complete compliance with the Contract Documents free from any lien, claim or encumbrance, whether in existence or subsequently established by law, statute, ordinance or otherwise. Notwithstanding the foregoing, nothing in the Contract Documents shall give Contractor or any subcontractor, laborer, supplier, manufacturer or other person or entity, either expressly or by implication, any right to assert a lien, claim or encumbrance against the Project.

Section 7. Commencement and Completion of Performance; Liquidated Damages.

a. Contractor shall commence performance within ten (10) days after receipt of written notice to proceed, which is expected to be given on or before October 11th, 2024 and shall diligently perform all work through completion. Unless an extension of time is granted by Owner as hereinafter set forth, Contractor shall substantially complete the Project within a maximum period of 45 days after the date of written notice to proceed and shall finally complete the Project within a maximum period of 14 days after the date of Substantial Completion. For purposes of this Agreement, (i) "Substantial Completion" shall be the time at which the Project (or a specified part thereof) has progressed to the point where, in the opinion of Project Manager, the Project (or a specified part thereof) is sufficiently complete in accordance with the Contract Documents, so that the Project (or a specified part thereof) can be utilized by Owner for the purposes for which it is intended; and (ii) "Final Completion" shall be the time at which Owner accepts the Project upon confirmation from Project Manager and Contractor that the Project is totally complete in accordance with Contract Documents.

b. If Contractor fails to perform the Project within the above-referenced performance deadlines or any extension thereof (the "Performance Deadlines"), Contractor shall pay to Owner as liquidated damages (and not as a penalty) for ordinary and general damages and inconvenience (exclusive of any special damages such as, by way of example and not limitation, any liabilities to third parties) the sum of:

~~**1.** Late startup of all major equipment: $ per day~~

~~**2.** Late Substantial Completion: $ per day~~

3. Late Final Completion: $100 per day.

These liquidated damages are based upon Owner's evaluation of its likely losses in the event the Performance Deadlines are not met. The liquidated damages herein established are agreed to by Contractor after full discussion of the implication of this Section 7. The failure to perform the work and complete the Project by the Performance Deadlines will cause significant damage to Owner. Owner and Contractor agree that such actual damages caused by Contractor's failure to meet the Performance Deadlines would reasonably likely include, without limitation, the costs for additional construction management and other Owner representative/employee time; the costs for third-party consultants' time; inefficiency and inconvenience damages to Owner's operations; damages to Owner's reputation with third-parties (including governmental entities with regulatory jurisdiction over Owner), as well as other potential actual damages to Owner reasonably associated with the subject matter of this Agreement. Contractor acknowledges that the liquidated damages established herein are a reasonable pre-estimate of the detriment Owner will suffer in the event Contractor fails to perform the work and complete the Project by the Performance Deadlines and, after a full discussion of the implications of this section, further acknowledges that the above estimates are reasonable of presumed actual damages given it would be impractical and difficult to precisely ascertain the actual damages that Owner might suffer by reason of Contractor's failure to perform the work and complete the Project by the Performance Deadlines. The liquidated damages established herein are intended to be and are cumulative and shall be in addition to any other remedy enforceable at law under this Agreement. Liquidated damages do not include any sums of money to reimburse Owner for extra costs which Owner may become obligated to pay on other contracts that are delayed or extended because of Contractor's failure to perform the work and complete the Project by the Performance Deadlines. Should Owner incur such other additional costs because of delays or extensions to other contracts resulting from Contractor's unexcused failure or delay in performance, Owner will assess any such extra costs against Contractor in addition to the liquidated damages provided for herein.

c. No extension of time to complete performance shall be granted under normal circumstances. Extensions of time to complete performance may be authorized by

Owner in its sole discretion for any actual period of delay on an occurrence basis for: (i) adverse weather or climatic conditions not reasonably anticipated; (ii) major labor disputes; (iii) acts of God; (iv) detrimental acts of Owner; (v) acts of another contractor in the performance of related work under a separate contract with Owner; (vi) delays resulting from the intervention of governmental agencies in the performance of work on the Project, if not caused by Contractor or its subcontractors; or (vii) other extraordinary circumstances beyond Contractor's reasonable control. Foreseeable weather delays and delays or failures in delivery of equipment or materials shall not constitute cause for an extension of time to complete performance or for an adjustment to the Contract Price. Any request for an extension of time to complete performance shall be submitted in writing to Project Manager for Owner's approval within ten (10) days after such occurrence and shall be accompanied and supported by a schedule analysis based on the critical path method, which shows how and where the delay occurred on the then-critical path and its effect on any milestone date or the date of Substantial Completion. The decision of Owner shall be conclusive and binding upon Contractor.

Section 8. Default. Owner may give written notice of grounds for default to Contractor at any time if: (i) Contractor fails to perform in an adequate or specified manner or proceeds in willful violation of the Contract Documents or terms of this Agreement, as determined by Project Manager or Owner; (ii) Project Manager advises Owner that performance of work on the Project is being delayed unnecessarily or that Contractor is executing its responsibilities in bad faith or contrary to the intent of this Agreement; (iii) performance is not fully completed within the period of time specified for completion under Section 7 (Commencement and Completion of Performance; Liquidated Damages); (iv) work to be performed by Contractor is assigned without Owner's consent; (v) the Contractor fails to procure the insurance required hereunder or provide the Owner with Certificates of Insurance, as defined in Section 12.g. (Insurance), within the timeframe provided herein; (vi) Contractor is insolvent or files for bankruptcy; (vii) Contractor makes a general assignment of assets for the benefit of creditors; (viii) a receiver is appointed for Contractor; or (ix) other serious and reasonable cause exists which jeopardizes completion of the Project. If Contractor does not remedy or otherwise correct the grounds for default within such period of time as specified by Owner, Owner may terminate this Agreement and direct Contractor to discontinue any further work on the Project, and Contractor shall immediately stop all work on the Project and forfeit all rights under this Agreement. Owner, in its discretion, may complete the Project, or may request the surety of Contractor to complete the Project, or may contract with others to complete the Project at the expense of Contractor and its surety. Any increase in costs over the Contract Price and any actual and/or special damages incurred by Owner as a consequence of such default, including reasonable attorneys' fees, shall be paid and satisfied in full by Contractor and its surety.

Section 9. Termination. At any time, Owner may, without cause and without prejudice to any other right or remedy hereunder, elect to terminate this Agreement. In such event, Owner shall give written notice of Project termination to Contractor at least five (5) days in advance of the Project termination date. Such notice may include specific instructions as to work to be completed and other winding-up matters. In the absence of any contrary instructions, Contractor shall place no further orders or enter into subcontracts related to the Project, shall terminate all orders and subcontracts to the extent they relate to terminated work, and shall stop work on the date and in accordance with directions specified in the notice. Contractor shall cooperate with Owner to transfer all of Contractor's rights and interests in any orders, subcontracts or work as directed by Owner. Owner shall pay Contractor for the performance of all work through the Project termination date and for such additional amounts as, in the opinion of Project Manager, are reasonable to compensate Contractor for the termination of this Agreement. Final payment to Contractor shall be made in accordance with Section 5 (Final Payment).

Section 10. Taxes, Licenses, Permits, and Regulations. In all operations connected with the Project, Contractor shall pay all fees, charges and taxes imposed by law, except for sales and use taxes from which Owner or the Project are exempt and shall obtain all licenses and permits necessary for completion of the Project, including payment of all fees, unless otherwise specified by the Contract Documents or approved in writing by the Project Manager. Contractor shall comply with all laws, ordinances, codes, rules and regulations of all governmental authorities, whether local, State or federal, relating to the performance of work on the Project and particularly for compliance with those laws concerning the environment, stormwater management permits, workmen's compensation, safety and health, labor, immigration and equal employment opportunity. Owner shall, upon request, furnish Contractor with a copy of its certificate of sales and use tax exemption. Owner shall not reimburse Contractor for any sales or use taxes paid to the State or any county or municipality from which Owner or the Project are exempt.

Section 11. Indemnification; No Waiver of Liability or Immunity. Contractor agrees to indemnify, defend, and hold harmless the Owner and its officers, directors, employees, agents, engineers/architects and attorneys from all costs, claims, damages, judgments, losses, liability and expenses of every nature, including reasonable attorneys' fees, arising at any time from any act or omission of the Contractor, its agents, representatives, subcontractors, or suppliers. Contractor shall upon request of the Owner promptly assume the defense, with defense counsel of Owner's choice and at Contractor's sole expense, of any claim, action, proceeding or suit that is brought against the Owner arising from any act or omission of the Contractor, its agents, representatives, subcontractors, or suppliers. If other persons and/or entities, excluding the Owner and its officers, directors, employees, agents, engineers, architects, and attorneys, at fault exist, Contractor agrees to work in good faith with such persons and/or entities in determining how the Owner's defense costs shall be covered, but under no circumstances shall the Owner be responsible for those costs. Contractor further agrees that, to the extent applicable, indemnification shall only be to the extent and for an amount represented by the degree or percentage of negligence or fault attributable to the Contractor or its agents, representatives, subcontractors, or suppliers. The extent of the Contractor's obligation to indemnify the Owner and its officers, directors, employees, agents, engineers/architects and attorneys may be determined only after the Contractor's liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement of the Parties. Contractor's obligations under this Section shall be to the fullest extent permitted by law and shall survive termination or expiration of this Agreement. **Notwithstanding any other provision contained in this Agreement, the Owner does not agree to defend, indemnify, or hold harmless the Contractor or waive or limit its rights and/or claims in any respect regarding the Contractor's liability (either by type of liability or amount).** Owner 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, defenses 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 the Owner or its officers or employees. Nothing in this Section shall be construed to require any indemnification that would make this provision void or unenforceable or to eliminate or reduce the indemnification or rights which the Owner has by law.

Section 12. Insurance.

a. During the term of this Agreement, the Contractor shall purchase and maintain, at its own cost and expense, the following:

1. Workers' compensation insurance for its employees, if any, as required by Colorado law with limits of at least $500,000 per injury or illness an employee suffers as a result of providing the services hereunder, with a $500,000 aggregate per occurrence;

2. Employer's liability insurance with limits of at least $500,000 per employee/accident and $1,000,000 aggregate;

3. Commercial general liability insurance covering, without limitation, premises operations, products-completed operations, contractual liability insuring the obligations assumed by the Contractor under this Agreement, personal and advertising injury, and broad form property damage, with limits of at least $2,000,000 per occurrence for bodily injury, death or damage to property; $2,000,000 per occurrence for personal and advertising injury; $2,000,000 products-completed operations aggregate; and $2,000,000 general aggregate;

4. Automobile liability insurance covering all owned, hired and non-owned vehicles used in the performance of the work under this Agreement with a limit of at least $2,000,000 combined per accident for bodily injury and property damage;

5. Unless otherwise waived by the Owner in writing, builder's risk insurance for protection against damage, explosion, fire, vandalism, theft and other dangers ordinarily included under such coverage, including loss of use resulting therefrom, to the full insurable value of all property, structures, equipment and material of the Owner within the Contractor's control, designating Owner as "loss payee".

~~**6.** Pollution/environmental liability insurance with limits of at least $2,000,000 per claim and in the aggregate covering liability for bodily injury, property damage, environmental damage, clean-up costs and defense costs from operations performed. Such claims-made insurance shall provide a retroactive date of one month prior to the date of the Agreement and either (i) continuous insurance coverage for a period of three (3) years after termination of the Agreement, or (ii) an extended reporting period of not less than three (3) years after termination of the Agreement.~~

b. The insurance required herein may be satisfied through any combination of primary and excess/umbrella liability policies.

c. The insurance required herein shall be written by an insurance company or companies that (i) have an A.M. Best Company rating of "A-VII" or better, and (ii) are authorized to issue insurance in the State of Colorado.

d. The Owner, its directors, officers, employees, Project Manager shall be endorsed as "Additional Insureds" under the (i) commercial general liability insurance policy for both ongoing and completed performance and/or operations for a period of two (2) years and (ii) automobile liability policy.

e. The Contractor shall provide a waiver of subrogation endorsement, or its equivalent, under the (i) workers' compensation; (ii) commercial general liability; and (iii) automobile liability insurance policies in favor of the Owner, its directors, officers, agents, and employees.

f. All liability insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the Owner and its directors, officers, agents, and employees. Any insurance maintained by the Owner and its directors, officers, agents, and employees shall be excess of and shall not contribute with the Contractor's insurance.

g. Prior to commencement of work under this Agreement, Contractor shall provide certificates of insurance satisfactory to the Owner that clearly evidence all insurance coverages required herein, including but not limited to endorsements (individually and collectively, "Certificates of Insurance"). Contractor agrees that, until the Owner is supplied with Certificates of Insurance, no payment under this Agreement will be made by the Owner. Contractor will provide the Owner with updated Certificates of Insurance within ten (10) calendar days of the anniversary of the effective date of coverage should that date fall during the term of this Agreement. Failure of the Owner to require Certificates of Insurance or to identify a deficiency in coverage shall not relieve the Contractor from its responsibility to provide the specific insurance coverages set forth herein.

h. Contractor shall require as part of its contract(s) with subcontractors that each subcontractor purchase and maintain insurance of the types and with policy limits no less than those required of Contractor under this Section 12. All general liability policies carried by a subcontractor shall be endorsed to include the Additional Insureds identified above. Each subcontractor shall be required to provide Contractor with certificates of insurance evidencing such coverage prior to commencement of work by a subcontractor. Such certificates of insurance shall be provided to Owner upon request.

i. The insurance policies afforded hereunder shall not be cancelled or allowed to expire unless at least thirty (30) days' prior written notice has been delivered to the Owner, except in the event of cancellation due to non-payment of a premium, in which case notice shall be given to the Owner no later than ten (10) days prior to cancellation of the policy. Upon receipt of any notice of cancellation or non-renewal, the Contractor shall, within five (5) days, procure other policies of insurance as necessary to comply with this Section 12 and provide Certificates of Insurance evidencing the same to the Owner.

Section 13. Performance, Payment and ~~Warranty Bond~~. Prior to commencement of performance, Contractor shall provide to Owner a general performance, payment and warranty bond executed by Contractor and an acceptable corporate surety, or collateral approved by Owner, in the full amount of the Contract Price, including provisions for any adjustment of the Contract Price in accordance with the terms of this Agreement. Such bond shall expressly guarantee: (i) faithful performance of this Agreement and completion of the Project in complete compliance with the Contract Documents; (ii) repair and replacement, if required, or payment of the costs of all defective equipment, materials and work performed on the Project or as provided under any warranty, guarantee or other Contract Document for the full warranty and guarantee period; and (iii) payment to all persons performing labor and furnishing materials, supplies, tools and equipment in connection with the Project. Contractor shall obtain such bond on Owner's behalf separate and apart from any similar bond or surety or warranty agreement entered into independently between Owner and any manufacturer or supplier. Owner may, in its discretion, require that the bond guaranteeing payment to all persons performing labor and furnishing materials, supplies, tools and equipment in connection with the Project be separate from the bond guaranteeing performance and warranting the work. Notwithstanding anything contained within the bonds to the contrary, such bonds are required, in part, by and shall comply with the minimum requirements of Section 38-26-106, C.R.S.

Section 14. Warranties and Guarantees. Contractor hereby represents, warrants and guarantees to Owner all workmanship, equipment and materials on or made a part of the Project and its structures for a period of one (1) year following Final Completion of the Project. Such warranty and guarantee shall be construed to include, but is not limited to, representations that all workmanship, equipment and materials are of good quality, free from any defects or irregularities, and in strict conformity with the Contract Documents. If any defect in workmanship, equipment or materials arises, Contractor shall remedy or otherwise correct such defect without cost to Owner within such reasonable period of time as specified by Owner in writing. If Contractor fails to repair such defect within such period of time as is specified by Owner, Owner may repair such defect or contract for such repairs at the expense of Contractor and its surety. The performance bond specified in Section 13 shall remain in full force and effect during the period of this warranty and guarantee, including any period necessary to remedy or otherwise correct any defects. Contractor shall provide such warranty and guarantee on Owner's behalf separate and apart from other warranties, guarantees and surety agreements entered into independently between Owner and any manufacturer or supplier.

Section 15. Subcontractors, Suppliers and Others. Contractor shall, prior to commencement of performance, submit a list of all major subcontractors, suppliers, and other individuals or entities to be engaged to work on the Project for Owner's reasonable acceptance (either in writing or by failing to make written objection thereto within ten (10) days after such submission). Contractor shall not substitute any subcontractor, supplier, or other individual or entity previously accepted by Owner without Owner's prior written consent, which shall not be unreasonably withheld. Owner's acceptance of any such subcontractor, supplier, or other individual or entity so identified may be withheld or revoked on the basis of reasonable objection after due investigation. In such event, Contractor shall submit an acceptable replacement for the rejected subcontractor, supplier, or other individual or entity, and the Contract Price may be adjusted by any reasonable difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such subcontractor, supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Project Manager to reject defective work. All contracts between Contractor and subcontractors shall conform explicitly to all applicable provisions of this Agreement and the Contract Documents. Contractor shall be responsible and held liable for any bonding, insurance, warranties, indemnities, progress payments and completion of performance of or to such subcontractors, suppliers, or other individuals or entities. Upon receipt of progress and final payments from Owner, Contractor shall disburse the same to subcontractors, suppliers, and other individuals and entities in accordance with the contractual terms between Contractor and such subcontractors, suppliers, and other individuals and entities, without any requirement of Owner to supervise the same. No contractual relationship shall exist between Owner and any subcontractor, supplier, or other individual or entity because of the subcontracting of any part of the Project.

Section 16. Project Manager. Official authority for the administration of all performance under this Agreement is hereby delegated to Owner's engineer or project manager ("Project Manager"), unless otherwise provided in the Contract Documents. Throughout the construction period, Project Manager, or such other duly authorized representative of Owner, may inspect the Project and shall consult with Contractor in regard to any inquiries, directions or interpretations of the Contract Documents.

Section 17. Appropriations; Change Orders. This Agreement is subject to Section 24-91-103.6, C.R.S., and in accordance therewith:

a. Owner represents that it has appropriated money equal to or in excess of the Contract Price for the work.

b. Owner shall not issue any Change Order or other directive (other than a clarification) requiring additional compensable work to be performed that will cause the aggregate amount payable under this Agreement to exceed the amount appropriated for the original Contract Price and any subsequent appropriations, unless:

1. Contractor is given written assurance by Owner that lawful appropriations to cover the costs of the additional work have been made and are available prior to performance of the additional work; or

2. Such additional work is covered by the following remedy-granting provision: Contractor may request, in writing, a letter from Owner explaining the expected sources of funding for the additional work. In the event Owner does not provide such written assurance reasonably satisfactory to Contractor within five (5) days of Contractor's request, Contractor may stop work until such time as Owner provides satisfactory assurances. Contractor's acceptance of a Change Order in accordance with any assurances provided under this paragraph shall not limit or restrict Contractor from making a claim under the Contract Documents for an adjustment in the Contract Price or the Performance Deadlines or otherwise for expenses or damages directly attributable to Contractor's stoppage of the work as permitted hereunder.

c. For any Change Order or other directive (other than a clarification) that requires additional compensable work to be performed, Owner shall reimburse Contractor for Contractor's costs on the periodic basis set forth in the Contract Documents for all additional directed work performed until the Change Order is finalized. In no instance shall the periodic reimbursement be required before Contractor has submitted an estimate of cost to Owner for the additional compensable work to be performed.

Section 18. Contract Documents. The Contract Documents comprise the entire agreement and contract between Owner and Contractor and consist of (i) this Agreement and any exhibit or addendum hereto; (ii) any documents furnished to Contractor by or at the request of Owner in connection with the Project, including but not limited to notice to bidders, instructions to bidders, bid bond form, bid proposal, performance, payment and maintenance bonds, notice of award, notice to proceed, specifications, plans, drawings and special conditions, and any addendum to such documents; and (iii) any modifications, change orders or other such revisions approved by the Parties in writing or duly authorized after the execution of this Agreement.

Section 19. Report of Differing Conditions. If Contractor believes that any technical data on which Contractor is entitled to rely is inaccurate, or any physical condition differs materially from that indicated, reflected or referred to in the Contract Documents, Contractor shall promptly, after becoming aware of such condition and before performing any further work in connection with the Project, notify Project Manager and Owner in writing about such inadequacy or difference.

Section 20. Amendment. This Agreement may be amended, from time to time, by agreement between the Parties. No amendment, modification or alteration of this Agreement shall be binding upon the Parties unless the same is in writing and approved by the duly authorized representatives of each Party. No document executed subsequent to this Agreement shall be interpreted to amend, modify or alter the terms of this Agreement, unless express reference to amending the terms of this Agreement is made in such document.

Section 21. Colorado Labor. If the Project is financed in whole or in part by funds of the State or any county, school district or municipality of the State, Colorado labor shall be employed to perform at least eighty percent (80%) of the work, unless such requirement is waived by the Owner in accordance with Section 8-17-101 (1), C.R.S. "Colorado labor" means any person who is a resident of the State at the time of the Project. A "resident of the State" is a person who can provide a valid Colorado driver's license, a valid State-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty (30) days.

Section 22. Participation in Certified Apprentice Training Program. If the Owner used a prequalification process pursuant to Section 32-1-1805, C.R.S. to select and award the Work, by execution of this Agreement, Contractor represents, warrants, and agrees that the Contractor shall comply with the provisions of Section 32-1-1805(3), C.R.S., relating to access to apprentice training programs certified by the U.S. Department of Labor or a comparable alternative. If the Contract Price is $250,000 or more, Contractor represents, warrants, and agrees that all subcontractors, at any tier, shall have similar access to either a certified program or comparable alternative.

Section 23. Severability. If any term or condition of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term or condition shall not affect any of the remaining provisions of this Agreement.

Section 24. Waiver. No waiver by either Party of any right, term or condition of this Agreement shall be deemed or construed as a waiver of any other right, term or condition, nor shall a waiver of any breach hereof be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.

Section 25. Remedies. None of the remedies provided to either Party under this Agreement shall be required to be exhausted or exercised as a prerequisite to resort to any further relief to which such Party may then be entitled. Every obligation assumed by, or imposed upon, either Party shall be enforceable by any appropriate action, petition or proceeding at law or in equity, including specific performance. If Owner does not pursue a particular remedy contemporaneously with a default and/or any other issue that may arise, the Owner does not waive the right to pursue the remedy at a later date.

Section 26. Counterparts; Electronic Signatures; Electronic Records. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one and the same document. The Parties consent to the use of electronic signatures and agree that the transaction may be conducted electronically pursuant to the Uniform Electronic Transactions Act, § 24-71.3-101 *et seq.*, C.R.S.

Section 27. Entirety. This Agreement and all other Contract Documents constitute the entire agreement between the Parties concerning the subject matter herein, and all prior negotiations, representations, contracts, understandings or agreements pertaining to such matters are merged into and superseded by this Agreement and the other Contract Documents.

Section 28. Conflicting Provisions; Grant Requirements Control; Interpretation. In the event any provision of this Agreement conflicts with any provision of any other Contract Document, then the provisions of this Agreement shall govern and control such conflicting provisions. If the Project is financed in whole or in part by a federal or State grant, any provision of the Contract Documents that is in conflict with the terms of such grant shall be inapplicable.

Section 29. Assignment. Contractor shall not, at any time, assign any interest in this Agreement to any person or entity without the prior written consent of Owner. The terms of this Agreement shall inure to and be binding upon any successors and assigns of the Parties.

Section 30. Time. Unless otherwise expressly provided, any reference herein to days shall mean calendar days. All times stated in this Agreement are of the essence.

Section 31. Notice. Any notice required hereunder shall be in writing delivered to the applicable Party at the address set forth at the beginning of this Agreement or as changed pursuant to the provisions of this Section.

Section 32. Section Headings. The section headings in this Agreement have been inserted for convenience of reference only and shall not affect the meaning or interpretation of any part of this Agreement.

Section 33. No Third-Party Beneficiaries. The Parties to this Agreement do not intend to extend any benefits to any person not a Party to this Agreement. No person or entity, other than the Parties to this Agreement, shall have any rights, legal or equitable, to enforce or rely on any provision of this Agreement.

Section 34. Duly Authorized Signatories. By execution of this Agreement, the undersigned each individually represent that he or she is duly authorized to execute and deliver this Agreement and that the subject Party shall be bound by the signatory's execution of this Agreement.

Section 35. Law; **Venue.** The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this Agreement. Venue for any dispute between the Parties arising out of or relating to this Agreement shall be in the State of Colorado District Court for El Paso County.

Section 36. Not Construed Against Drafter. Each Party acknowledges that it has had an adequate opportunity to review each and every provision contained in this Agreement, including the opportunity to consult with legal counsel. Based on the foregoing, no provision of this Agreement shall be construed against either Party by reason of such Party being deemed to have drafted such provision.

[Signature Pages Follow]

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

OWNER:

Town of Monument, Colorado home rule municipality

By: ___________________________________
Name: ___________________________________
Title: ___________________________________

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing Agreement was acknowledged before me this______(day), ____________(month), 2024, by ____________________________(name of person signing for district) as ___________________________________ of the Town of Monument.

Witness my hand and official seal.

My commission expires: __________________________

____
Notary Public

CONTRACTOR:
Fence Consulting Services

By: ______________________________________
Name: ______________________________________
Title: ______________________________________

STATE OF COLORADO)
) ss.
COUNTY OF ___________)

The foregoing Agreement was acknowledged before me this______(day) of ________(month), 2024, by _______________________________(name of person signing for Contractor) as ______________________________(title of person signing for contractor) of Fence Consulting Services a ________________(form of entity).

Witness my hand and official seal.

My commission expires: ____________________

____
Notary Public

Monument Fire District

Forest Management & The Monument Lake Project

Serving with Character, Connection, and Commitment

1

Wildfire Risk and Our Community

- Your Safety
- Your Property
- Our Community
- The Town of Monument
  - Lead the partnership with our neighborhoods
  - Provide education with real examples

2

The Project

- Provide Wildfire Mitigation Treatment Supporting Lake of the Rockies
- Provide a Wildfire Mitigation Demonstration Area For the Public to View and Apply Concepts to Their Property

3

What is Forest Management?

- The manipulation of forest vegetation for the purpose of achieving a stated objective(s).
- Our objectives :
  - **Restore the forest to a FIRE ADAPTED condition.**
  - Belie the myth that wildfire mitigation is unnatural or a clearcut.
  - Protect the adjoining neighborhood from intense wildfire.
  - Persuade the neighbors to mitigate their own wildfire hazards.

4

A fire adapted forest is one where fire can burn without causing severe damage and that recovers from wildfire quickly.

Shoup Road, Black Forest, August 1, 2013.

5

Forests always have been shaped and regenerated by disturbance.

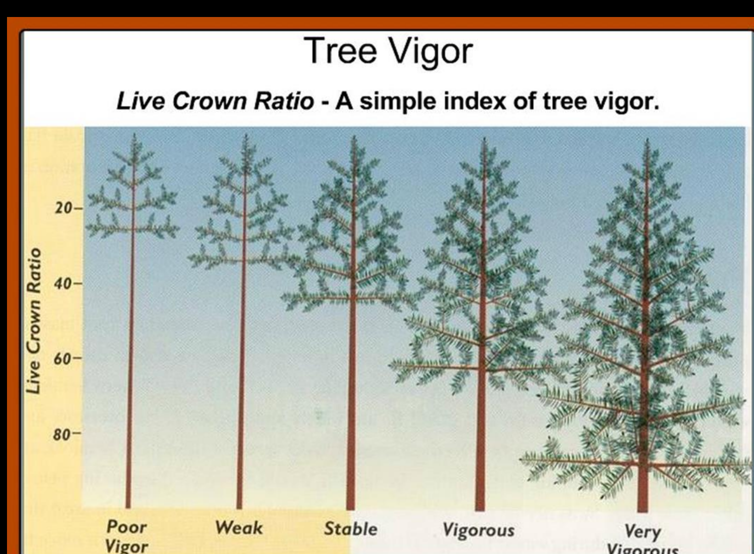
- **Before the removal of Native Americans ca. 1870, forests and grasslands were managed by Native American prescribed burning.**
- Wind: High winds associated with storms, tornados etc.
- Insects and diseases.
- People: And the variables they bring.

6

Natural vs. Unnatural

7

Choosing trees to cut / keep



8

Selection Criteria:
Habitat Trees aka Snags

- Please don't cut down the condominium.



9

Questions?

Dave Root,
Root Forestry LLC
davidroot17n18@gmail.com

Keith Worley,
Forestree Development, LLC
forestreedev@aol.com

Jonathan Bradley,
Monument Fire District
Jbradley@monumentfire.org

10

Town of Monument Council Presentation

90% Meeting

October 7th, 2024

Oscar Rangel, Ashlee Kruger, Branden Morhous

Agenda

01 Recap From Last Update

02 Energy Project Update 90%

03 ROM

04 Timeline

05 Q & A

VEREGY

Recap From Last Update

At our last meeting…

We completed the CEO's 60% milestone for scope development

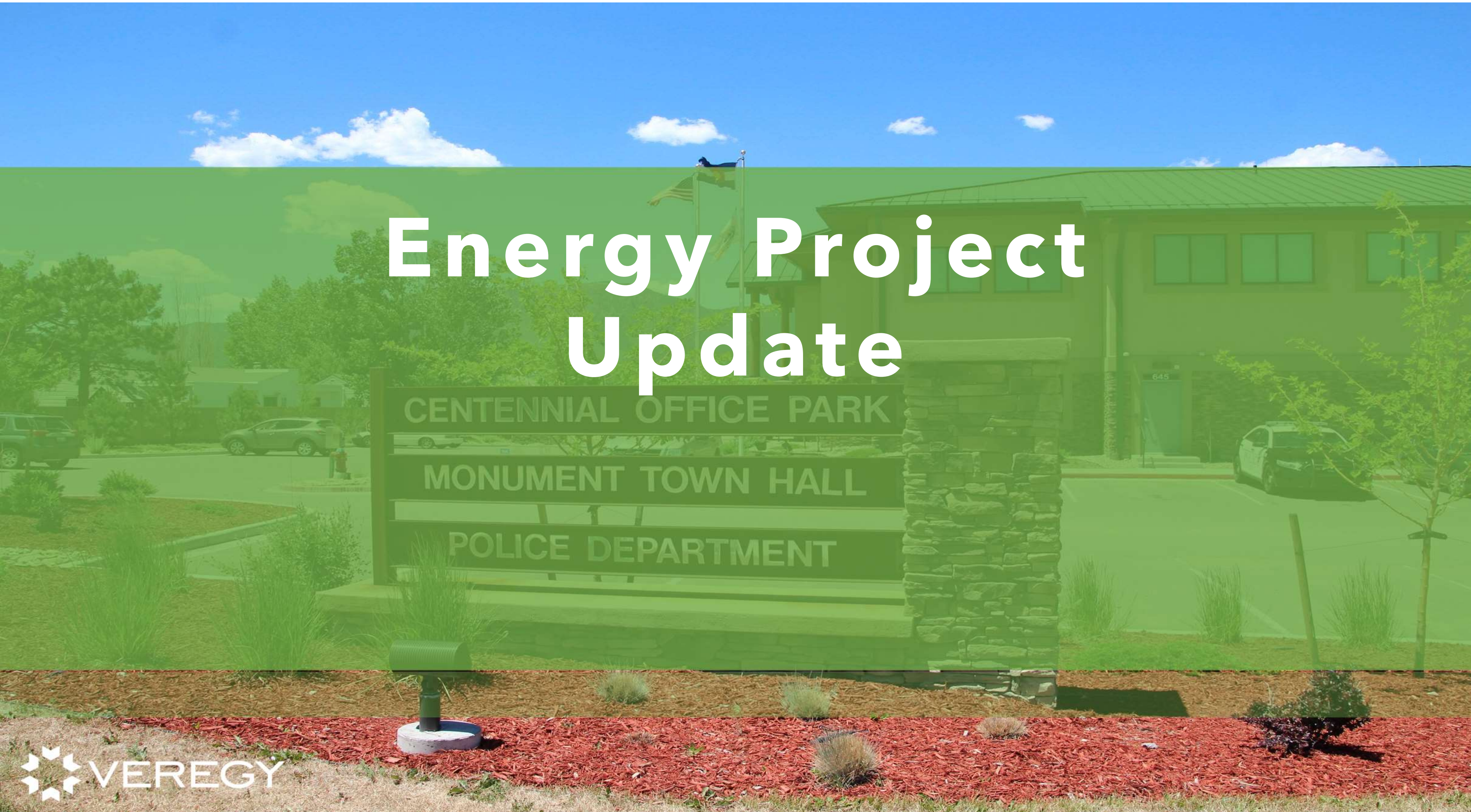
Provided solutions to the Town's challenges

- ✓ Retrofit old lighting with new LED lighting
- ✓ Building envelope
- ✓ Solve for HVAC air distribution at Town Hall
- ✓ Replace end of life mechanical equipment at Town Hall and 259 Beacon Lite Bldg
- ✓ Offset increases in utility cost by installing solar and battery storage

Investigate potential grants to make the project viable

- ✓ DOLA
- ✓ Colorado Energy Office

Energy Project Update



VEREGY

Energy Project Update

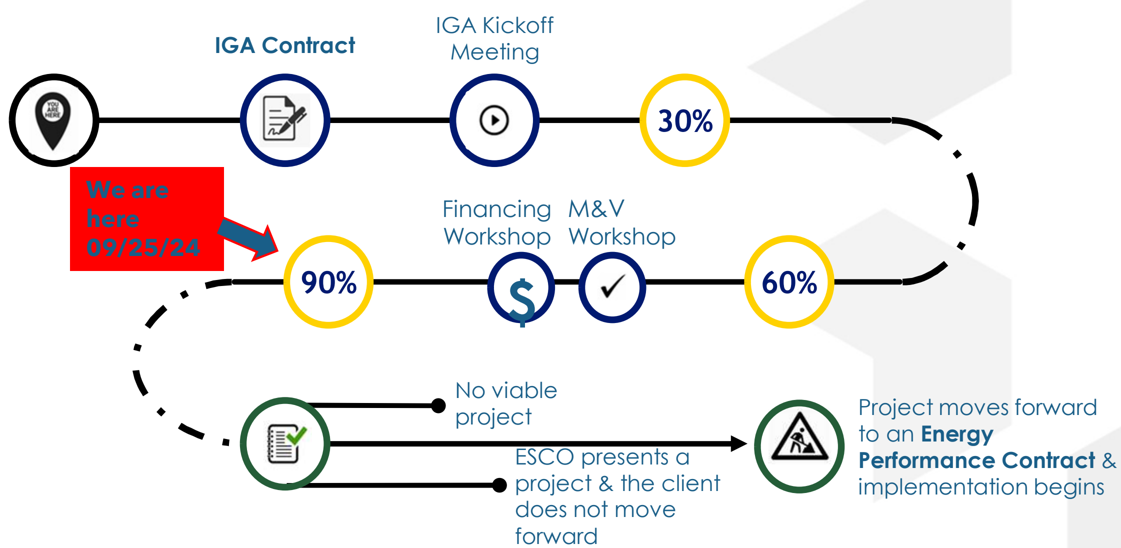
VEREGY

Simplicity: Money saved on energy and operating costs can pay for building improvements.

Guarantee: If the project fails to reduce costs as guaranteed, Veregy pays the difference.

Goals: Sustainability, Healthy Buildings, Safety, Comfort and Energy Efficiency.

COLORADO
Energy Office



Energy Project Update

VEREGY

Where are we today?

We completed the CEO's 90% milestone of scope development.

Solutions to the Town challenges include:

- ✓ Retrofitting old lighting with new LED lighting
- ✓ Building envelope
- ✓ Solving HVAC air distribution at Town Hall
- ✓ Replacing end of life mechanical equipment at Town Hall and 259 Beacon Lite Bldg
- ✓ Offsetting increases in utility cost by installing rooftop solar

Identified Rebates for Project Scope

- ✓ MVEA Utility – Lighting rebates $8,125
- ✓ MVEA Utility – HVAC rebates $12,687
- ✓ IRA ITC – Inflation Reduction Act/Investment Tax Credit (Solar) – Federal $183,144

Grants

- ✓ DOLA (EIAF) - Energy/Mineral Impact Assistance Fund Grant Program - $500,000 (Awarded!!!)
- ✓ CEO (PBEG) – Public Building Electrification Grant - $421,087 (waiting for award)
- ✓ CEO Microgrid – Next Cycle

ROM

Rough Order of Magnitude Pricing with Savings

Review of ECMs and EPC Financials – Project A

VEREGY

ECM	Monument Town Hall/Police	259 Beacon Lite	225 Beacon Lite Rd	Public Works	Town Building-wide
Site Name					
Lighting - LED	✔	✔	✔	✔	
Building Envelope - Exterior Sealing/Door Sweeps	✔	✔	✔	✔	
HVAC - Packaged Unit Upgrades		✔			
HVAC - ASHP w/ Gas Backup					
HVAC - VVT Systems	✔				
Orchestrate - Wireless HVAC Controls	✔	✔	✔	✔	
Orchestrate - Energy Tracer	✔	✔	✔	✔	
Orchestrate - Computerized Maintenance Management System					✔
Solar - Photovoltaic	✔	✔			

Project Costs	
Total Project Cost	$1,442,919
Town of Monument Contribution	$250,000
Submitted Grants	$500,000
Financed Amount	$692,919
M&V Fee	$5,000
Orchestrate Fee	$7,736
Project Savings	
Annual Energy Savings	$38,731
Utility Rebates/Incentives	$8,125
Inflation Reduction Act	$183,144
O&M Savings	$7,119
Financial Parameters	
Finance Term	16.0 Yr.s
Interest Rate	5.00%
Escalation/Inflation Factor	4.00%
Total Gross Savings	$1,154,948
Total Net Savings - Traditional	-$27,357
Total Net Savings - EPC	$11,471

Review of ECMs and EPC Financials - Project B

ECM	Monument Town Hall/Police	259 Beacon Lite	225 Beacon Lite Rd	Public Works	Town Building-wide
Site Name					
Lighting - LED	✔	✔	✔	✔	
Building Envelope - Exterior Sealing/Door Sweeps	✔	✔	✔	✔	
HVAC - Packaged Unit Upgrades		✔			
HVAC - ASHP w/ Gas Backup	✔				
HVAC - VVT Systems	✔				
Orchestrate - Wireless HVAC Controls	✔	✔	✔	✔	
Orchestrate - Energy Tracer	✔	✔	✔	✔	
Orchestrate - Computerized Maintenance Management System					✔
Solar - Photovoltaic	✔	✔			

Project Costs	
Total Project Cost	$1,892,192
Town of Monument Contribution	$250,000
Submitted Grants	$921,087
Financed Amount	$721,105
M&V Fee	$5,000
Orchestrate Fee	$7,736
Project Savings	
Annual Energy Savings	$33,926
Utility Rebates/Incentives	$20,813
Inflation Reduction Act	$183,144
O&M Savings	$7,119
Financial Parameters	
Finance Term	20.0 Yr.s
Interest Rate	5.00%
Escalation/Inflation Factor	4.00%
Total Gross Savings	$1,351,182
Total Net Savings - Traditional	-$15,843
Total Net Savings - EPC	$46,184

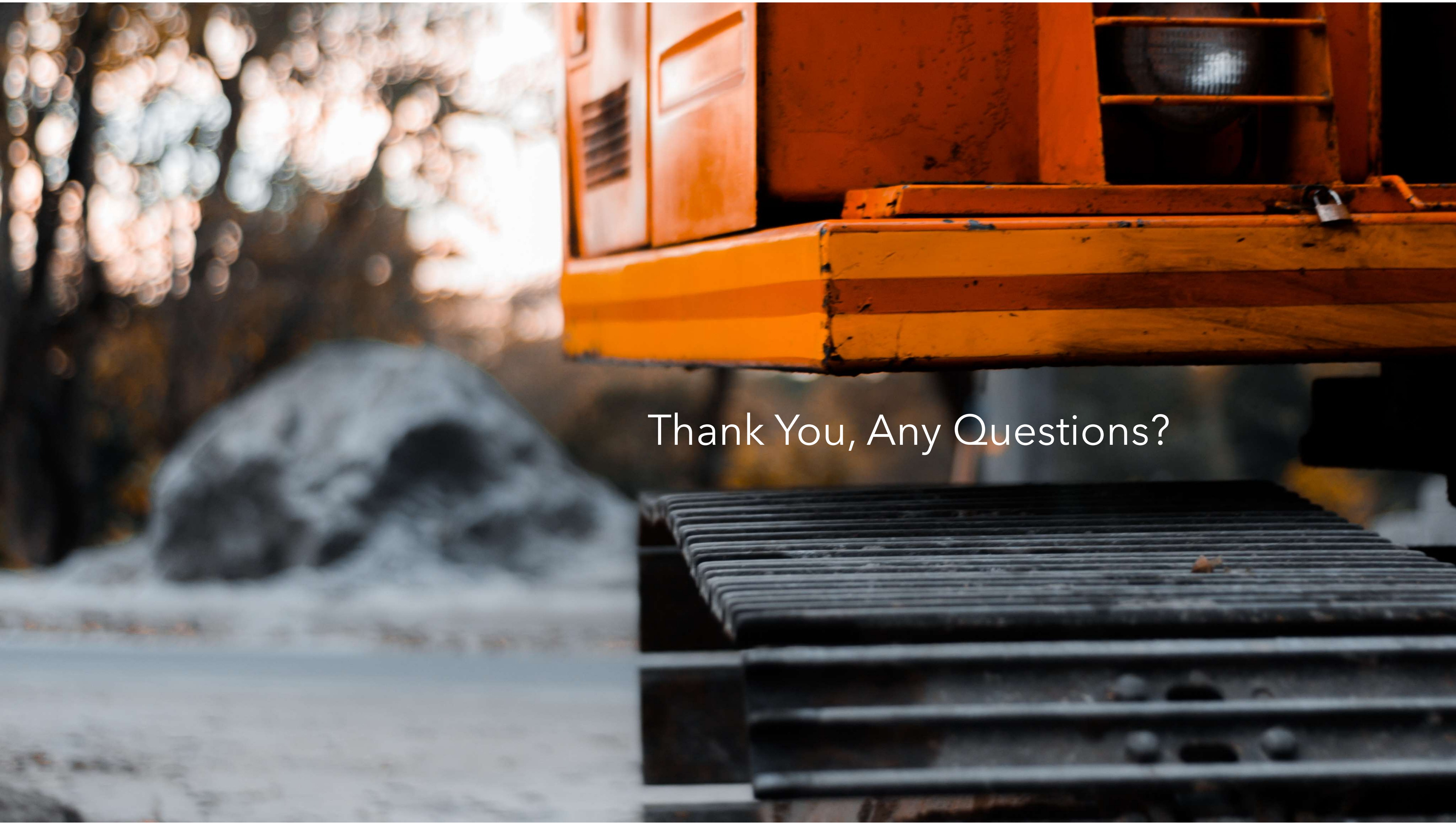
Next Steps Timeline

VEREGY

TOM/Veregy	green
Veregy	orange
DOLA/TOM	purple
TOM/Council/Veregy	blue
Veregy/TOM/Grants	yellow
TOM	dark gray

Town of Monument Energy Project Timeline

Task	Aug 24	Sept 24	Oct 24	Nov 24	Dec 24	Jan 25	Feb 25	Mar 25	Apr 25	May 25	June 25	July 25	Aug 25
PBEG Grant Application	8/31												
Financing Workshop		By 9/18											
90% Presentation		By 9/25											
M&V Workshop			By 10/15										
IGA Report to CEO and TOM			10/9										
Legal Review/CEO Contract		By 10/18											
Update to Council			10/7										
Council Approves EPC Path Forward			10/7										
Council Approves EPC Contract				11/18									
Council Approves Finance Contract				11/18									
TOM DOLA Steps and Contract Close			By 11/30										
Project/EPC Steps and Close			11/30										
Project/Finance Steps and Close			Close by 11/30										
Veregy Pre-Construction								Permitting/Subs/Procurement					
Veregy Construction										Install Infrastructure			


Thank You, Any Questions?

TOWN OF MONUMENT

ORDINANCE NO. 20-2024

AN ORDINANCE AMENDING TITLES 3 AND 5 REGARDING REVENUE AND FINANCE, AND BUSINESS LICENSES AND REGULATIONS OF THE MONUMENT MUNICIPAL CODE

WHEREAS, the Town of Monument ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town's Home Rule Charter approved by the electors on November 8, 2022 ("Charter"); and

WHEREAS, the Members of the Town Council ("Council") have been duly elected and qualified; and

WHEREAS, the Council has determined that various amendments are necessary to Titles 3 and 5 of the Monument Municipal Code to bring them into conformance with the Charter and provide general updates; and

WHEREAS, this Ordinance was introduced by title, considered at a public hearing, and voted upon at the regular meeting of the Town Council on October 7, 2024.

THE TOWN COUNCIL OF THE TOWN OF MONUMENT, COLORADO, ORDAINS:

Section 1. Incorporation. The recitals set forth above are incorporated and ordained as if set forth in this section in full.

Section 2. Amend Titles 3 and 5 of the Monument Municipal Code. The sections of Titles 3 and 5 of the Monument Municipal Code as set forth on Exhibit A, attached hereto and incorporated herein, are amended as shown with underlined text being added and stricken text being deleted.

Section 3. Publication. Pursuant to Subsection 6.5, 3. of the Charter and Subsection 2.04.030, G. of the Monument Municipal Code, upon approval this Ordinance shall be published on the Town's official website in full for not less than ten (10) days.

Section 4. Authentication and Filing. Upon passage this Ordinance shall be authenticated by the Mayor and Town Clerk and maintained by the Town Clerk in such form as is sufficient to assure reasonable access by the public. Failure to authenticate any ordinance shall not invalidate it or suspend its operation.

Section 5. Effective Date. This Ordinance shall become effective and be in full force and effect ten (10) days after final publication.

Section 6. **Severability**. If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable.

INTRODUCED, **PASSED, and ADOPTED/REJECTED**, by the Town Council of the Town of Monument, Colorado this 7th day of October, 2024 by a vote of __ for and _______ against.

TOWN OF MONUMENT, COLORADO

By: ________________________________
Mitch LaKind, Mayor

Attest:

____
Sylvia Simpson, Deputy Town Clerk

EXHIBIT A

to

Ordinance No. 20-2024

Title 3
REVENUE AND FINANCE

Chapter 3.04 FISCAL PROVISIONS GENERALLY

3.04.010 Fiscal year.

The fiscal year of the Town shall be as set forth in the Charter. ~~commence on the first day of January and end on the last day of December.~~

3.04.020 Annual budget.

A proposed, itemized annual budget for the ensuing year shall be prepared, presented by the Town Manager, adopted by the Town Council, and administered by the Town Manager as set forth in the Charter and ~~Not later than the first regular meeting of the board of trustees in September of each year, the budget committee, or other duly authorized persons designated by the board, shall submit to the board the itemized annual budget for the ensuing fiscal year. The budget as approved by the board, shall be adopted and administered in accordance with the provisions of~~ the local Government Budget Law of Colorado.

A. All revenues not specifically allocated to any other fund shall be placed in the general fund. All general functions of the Town shall be financed by expenditures from the general fund.

B. The following special funds are hereby created:

1. Capital Projects Fund
2. 2F Police Fund
3. 2A Water ASD Fund
4. Community Development Fund
5. Traffic Impact Fee Fund
6. Storm Drainage Impact Fee Fund
7. Water Enterprise Fund
8. Park Fees Fund
9. Conservation Trust Fund

~~1.~~10. Debt Service Fund

3.04.030 Rate of tax levy.

The Town Council ~~board of trustees~~ shall, by resolution, fix the ~~rate~~ amount of tax levy, which shall be assessed upon each dollar of assessed valuation of ~~to be levied upon~~ all the taxable property within the corporate limits of the Town ~~for municipal purposes and, through the Town Treasurer, shall officially certify the levy~~ and shall cause the same to be certified by ~~to the County Commissioners of~~ El Paso County as required by the Charter ~~prior to the fifteenth day of December of each year~~.

3.04.040 Annual appropriation.

Not later than the fifteenth (15th) day of December of each year, the Town Council shall adopt the budget and appropriate funds for the ensuing year~~The board of trustees shall pass an ordinance within the last quarter of each fiscal year, to be termed the annual appropriation ordinance for the next fiscal year. In such ordinance the board shall appropriate such sums of money as are necessary to cover the items in its budget~~

~~and~~ to defray all necessary expenses and liabilities of the Town, specifying the objects and purposes for which such appropriations are made and the amount appropriated for each object or purpose. The total amount appropriated shall not exceed the ~~probable~~ estimated amount of revenue that will be collected during the fiscal year.

3.04.050 ~~Publication~~ Publication of Expenditures ~~financial statements~~.

Authorized expenditures shall be published no less frequently than quarterly on the Town's website, and the Town shall maintain a record of such expenditures, which shall be available for public inspection at all times.~~The board of trustees shall, within twenty (20) days after the adjournment of each regular or special meeting, make available for public inspection such of its proceedings as relate to the payment of bills, stating for what the same are allowed, the name of the person to whom allowed, and to whom paid.~~

3.04.060 Deposits—Investments.

The ~~Town treasurer~~ Finance Director shall deposit all of the funds and moneys which come into the Finance Director's ~~treasurer's~~ possession by virtue of his or her office ~~as Town treasurer~~ in one or more ~~responsible~~ banks located in the State of Colorado which comply with the Public Deposit Protection Act and which have been designated by written resolution of the Town Council ~~board~~. The Town Council ~~board~~ may also authorize the Finance Director ~~Town treasurer~~, by written resolution, to invest all or any part of such funds ~~in securities which are~~ as authorized for ~~such~~ investment by state law.

3.04.070 Annual audit.

The ~~board of trustees~~ Town Council shall select a ~~qualified person~~ certified public accountant experienced in municipal accounting as auditor and cause to be made an annual audit of the financial affairs and transactions of the Town in accordance with the requirements of the Charter and state law. The Town Council must engage a new auditor every three years who may not be the same person or entity or have had any business or employee relationship with the auditor who has provided auditing services to the Town within the preceding six (6) years.

3.04.080 Tax credit.

Notwithstanding any other provisions of this chapter, there shall be granted to each person obligated to remit the sales and/or use (as ~~defined in Section 3.12.010 of this code~~ provided in the Monument Tax Code) taxes on nonexempt transactions occurring in the Forest Lakes Tech Center, an immediate tax credit against collection of the tax equal to the amount of the retail sales and/or use fee paid to the public improvement company pursuant to the terms set forth in the intergovernmental agreement, as amended, between the Town of Monument and the Forest Lakes Metropolitan District. The amount of the credit shall not exceed the amount of the sales and/or use tax designated by the Town for provision of water and/or sewer services within the Town. This credit shall terminate when the collection of the public improvement fee terminates. For purposes of this section, the term "public improvement fee" shall have the same meaning as the definition of "PIF" in the intergovernmental agreement as amended, which fee is imposed on retail sales and use transactions occurring in the Forest Lakes Tech Center.

Chapter 3.16 COMMUNITY DEVELOPMENT FUND

3.16.020 Fund expenditures.

The community development fund may be used in any way that the Town Council ~~Board~~ deems beneficial to the Monument community, including but not limited to:

A. Improvements in downtown Monument;
B. Improvements in other commercial districts within the Town of Monument;
C. Beautification of downtown;
D. Economic development;
E. Downtown management—Including the funding of a manager's position;
F. Public art and public art programs;
G. Events;
H. Marketing;
I. Maintenance of public areas;
J. Parking and parking management.

The Town Council ~~Board of Trustees~~ at their sole description may add to the fund from general funds or take excess funds from the community development fund and place them in the general fund.

Chapter 3.24 TRAFFIC IMPACT FEE REGULATIONS

3.24.010 Adoption of traffic impact fee regulations.

The Town Council ~~board of trustees~~ enacts the Town's traffic system impact fee regulations, a copy of which is attached hereto and fully incorporated by this reference.

3.24.020 Interim fees.

The Town Council ~~board of trustees~~ adopts the fees in the regulation based upon studies constructed on behalf of the Town. Such fees are adopted on an interim basis pending completion of the development of a formal needs analysis, cost allocations to growth and capacity data basis at which fees may be amended.

3.24.030 Exemption.

The Town Council ~~board of trustees~~ determines that the first five hundred (500) square feet of new construction or the first five hundred (500) square feet of addition to an existing structure shall be exempt from the traffic impact fee previously established by the Town.

Chapter 3.28 STORMWATER DRAINAGE SYSTEM IMPACT FEE REGULATIONS

3.28.010 Adoption.

The Town Council ~~board of trustees~~ hereby enacts the Town's stormwater drainage system impact fee regulations, a copy of which is to the attached to the ordinance codified in this chapter and fully incorporated by this reference.

3.28.015 ~~Interim f~~Fees.

The Town Council ~~board of trustees~~ adopts the fees in the regulation based upon studies conducted by El Paso County, Colorado, as may be amended from time to time. ~~Such fees are adopted on an interim basis~~The Town Council may, pending completion of the development of a formal needs analysis, cost allocations to growth and capacity data basis, adopt drainage impact fees based on such analysis, at which time the fees may be amended.

3.28.020 Findings.

A. New Growth. Based on the Town's ~~Town of Monument's~~ master plan and various land use and planning studies recently conducted on behalf of the Town ~~of Monument ("Town")~~, the ~~board of trustees of the~~ Town Council ~~of Monument, Colorado ("Board of Trustees")~~, projects there will be a significant amount of new growth and development in the Town in the next several years.

B. Need for Capacity Expansion and Major Stormwater Drainage System Improvements. The future growth and new development in the Town will require a substantial expansion and major improvements in stormwater drainage system facilities if adequate levels of service are to be maintained on the Town's major stormwater drainage system.

C. Major Stormwater Drainage System CIP. The Town Council ~~board of trustees~~ has identified the improvements required to maintain adequate levels of service on the Town's major stormwater drainage system. The list of the highest priority improvements that should be completed over the next several years, along with descriptions and cost estimates is referred to as the Town major stormwater drainage system capital improvement plan ("the Major Stormwater Drainage CIP"), which is attached to these regulations as Appendix "A" and incorporated herein by reference.

D. Revenue Shortfall. The Town Council ~~board of trustees~~ has determined that revenue generated by this new growth and development under the Town's existing fiscal structure will not be adequate to fund the needed stormwater drainage system improvements necessary to accommodate this new growth and development if the desired levels of service on the Town's major stormwater drainage system are to be maintained.

E. Proportionate Share Policy. The Town Council ~~board of trustees~~ has determined that future growth and new development should contribute its proportionate share of the costs of providing such stormwater drainage system facilities to the Town's major stormwater drainage system.

F. Stormwater Drainage System Impact Fee Preferred. The Town Council ~~board of trustees~~ has further determined that the imposition of a stormwater drainage system impact fee is one of the preferred methods of regulating new growth and development in the Town in order to ensure new growth and development bears a proportionate share of the costs of the stormwater drainage system facilities necessary to accommodate that new development and provide for the public health safety and welfare.

G. Interim Impact Fee. El Paso County, Colorado, has conducted detailed studies of four of the five drainage basins traversing the Town and, pursuant to an extensive public review and hearing process, the County has adopted a per impervious acre stormwater drainage impact fee for each of these basins applicable to unincorporated lands. As an interim measure pending completion of the development of (by system) a formal needs analysis, cost allocations to growth, and capacity data bases, the Town Council ~~board of trustees~~ has determined it would be in the best interests of the Town to implement an interim stormwater drainage system impact fee, based on El Paso County's drainage basin studies and consistent with the Town's drainage consultant's recommendations.

H. Consistent with Master Plan. A stormwater drainage system impact fee that contributes a proportionate share would assist in the implementation and be consistent with the Town's master plan.

3.28.030 Short title, authority and application.

A. Title. These regulations shall be known and may be cited as the "Town of Monument Stormwater Drainage System Impact Fee Regulations."

B. Authority. The Town Council ~~board of trustees~~ has the authority to adopt these regulations pursuant to the Town Home Rule Charter, C.R.S. §§29-20-101, et seq., C.R.S. §§31-15-701, et seq., C.R.S. §§31-23-201, et seq., and all other relevant laws of the state of Colorado.

C. Application. These regulations shall apply to all lands in the corporate limits of the Town of Monument.

3.28.060 Rules of construction.

A. General. All provisions, terms, phrases and expressions contained in these regulations shall be liberally construed in order that the true intent and meaning of the Town Council ~~board of trustees~~ may be fully carried out. Terms used in these regulations, unless otherwise specifically provided, shall have the meanings prescribed by applicable Town ordinances and land use regulations for the same terms.

B. Nontechnical and Technical Words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning and/or as specifically defined or described within applicable Town land use ordinances rules and regulations, and referenced drainage basin studies and reports.

C. Tense. Words used in the past or present tense include the future as well as the past or present.

3.28.080 Appeal of stormwater drainage impact fee determination.

A. Right of Appeal. Any person who feels aggrieved by the Town Manager's ~~manager's~~ determination of the stormwater drainage impact fee, or that the fee is otherwise unreasonable as specifically applied to that person's drainage-generating development, shall have the right of appeal to the Tow Council ~~board of trustees~~. Any such appeal shall be in writing and shall include, at a minimum and at the time of submittal, the specified grounds for appeal, and an independent fee calculation study which shall be based on data, information or assumptions consistent with these regulations or independent sources, and any other supporting documentation. Independent sources may be used, provided that: (a) the person who prepares the independent fee calculation study shall be a qualified professional in the preparation of stormwater drainage impact analysis, and shall be approved by the ~~Town manager~~Town Manager on the basis of professional training and experience; (b) the independent source is an accepted standard source of stormwater drainage engineering or planning data or information; and (c) the independent source is a local study on stormwater drainage characteristics carried out by a qualified stormwater drainage planner or engineer pursuant to an accepted methodology of stormwater drainage planning or engineering. All costs associated with the preparation and Town professional review of the independent fee calculation study shall be the sole responsibility of the appellant.

B. Procedure. Any such appeal shall be filed with the ~~Town manager~~Town Manager within ten (10) days from the Town Manager's determination being appealed, but in no event, shall such an appeal be taken subsequent to the commencement of drainage-generating development which is the subject of the appeal. Upon receipt of a complete appeal, the ~~Town manager~~Town Manager shall refer such appeal to the appropriate Town departments or agencies for their review and recommendations, and shall schedule the matter before the Town Council ~~board of trustees~~. Written notice of the date, time and place of the appeal hearing shall be given not later than five (5) days prior to the hearing to the appellant and any other person who may be affected thereby.

C. Appeal Hearing. The appellant shall have the burden of proof. The Town Council ~~board of trustees~~ shall consider the evidence submitted in support of the appeal, the recommendations of Town staff, and any additional evidence which it deems appropriate. If on the basis of generally recognized principles of impact analysis it is determined the data, information and assumptions used by the appellant to calculate the independent fee calculation study satisfies the requirements of these regulations, the fee determined in the independent fee calculation study shall be deemed the fee due and owing for the proposed drainage-generating development. If the independent fee calculation study fails to satisfy the requirements of these regulations, the fee applied shall be that fee established for the drainage-generating development in Section

3.28.070C.1. ~~(C)(1)~~ of these regulations. In no case shall the Town Council ~~board of trustees~~ have the authority to negotiate the amount of the fee.

3.28.090 Credits.

A. General.

1. Standards. Any person initiating drainage-generating development may apply for a credit against Town stormwater drainage impact fees otherwise due, up to but not exceeding the full obligation for stormwater drainage impact fees proposed to be paid pursuant to the provisions of these regulations, for any contribution, payment, construction, or dedication of land accepted and received by the Town for any non-site-related stormwater drainage system improvements on the Town's major stormwater drainage system identified in the major stormwater drainage system CIP. No credits shall be provided for site-related improvements.
2. Transferability. Credits for contributions, payments, construction or dedication of land for non-site-related stormwater drainage system improvements on the Town's major stormwater drainage system in the major stormwater drainage system CIP shall run with the land and shall be transferable within the same development. Credits shall not be transferable to other development for credit against the stormwater drainage impact fees, or for credit against fees required to be paid for other public facilities. The credit shall not exceed the amount of the stormwater drainage impact fees due and payable for the proposed drainage-generating development.
3. Front-Ending Agreement. The Town Council ~~board of trustees~~ may enter into a capital contribution front-ending agreement with any person initiating drainage-generating development who proposes to construct stormwater drainage systems or dedicate right-of-way for non-site related stormwater drainage system improvements on the major stormwater drainage system identified in the major stormwater drainage system CIP. To the extent that the costs of the construction or the fair market value of the right-of-way dedication for these stormwater drainage system improvements exceeds the obligation to pay stormwater drainage impact fees for which a credit is provided pursuant to these regulations, the capital contribution front-ending agreement may provide proportionate and fair share reimbursement.

B. Credit Against Fees. Credit shall be in an amount equal to the value of the contribution or payment at the time it is made to the Town, the costs of stormwater drainage construction at the time of its completion, or the fair market value of the land dedicated for right-of-way at the time of dedication.

C. Procedure for Credit Review.

1. General/Application Requirements. The determination of any credit shall be undertaken through the submission of an application for credit agreement, which shall be submitted to the Town Manager ~~manager~~. The application for credit review shall include the following information:
    a. If the proposed application involves a credit for any contribution or payment, the following documentation must be provided:
        i. A certified copy of the development approval in which the contribution was agreed;
        ii. If payment has been made, proof of payment; or
        iii. If payment has not been made, the proposed method of payment.
    b. If the proposed application involves construction:
        i. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Colorado engineer or contractor;
        ii. The projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction

timetable for the completion thereof. Such estimated cost shall include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements and franchises acquired, costs of plans and specifications, surveys of estimates of costs and of revenues, costs of professional services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction.

c. If the proposed application involves credit for the dedication of land:
   i. A drawing and legal description of the land;
   ii. The appraised fair market value of the land at the date a building permit is proposed to be issued for the drainage-generating development, prepared by a professional real estate appraiser who is a member of the Member Appraisal Institute (MAI) or who is a Senior Residential Appraiser (SRA), and if applicable, a certified copy of the development permit in which the land was agreed to be dedicated.

2. Review Hearing. Upon receipt of a complete application for credit agreement, the Town Manager ~~manager~~ shall refer such application to the appropriate Town departments or agencies for their review and recommendations, and shall schedule the matter before the Town Council ~~board of trustees~~. Written notice of the date, time and place of the review hearing shall be given not later than five (5) days prior to the hearing to the applicant and any other person who may be affected thereby. The Town Council ~~board of trustees~~ shall consider the evidence submitted in support of the application, the recommendations of Town staff, and any additional evidence which it deems appropriate. The application for credit agreement shall be approved if it complies with the standards in this chapter ~~Section 3.28.070(A)~~.
3. Credit Agreement. If the application for credit agreement is approved by the Town Council ~~board of trustees~~, a credit agreement shall be prepared and signed by the applicant and the Town. It shall specifically outline the contribution, payment, construction or land dedication, the time by which it shall be completed, dedicated, or paid, and any extension thereof, and the dollar credit the applicant shall receive for the contribution, payment or construction.

3.28.100 Benefit districts.

A. Establishment. For the purpose of ensuring feepayers receive sufficient benefit for fees paid, five stormwater drainage benefit districts are established to correspond with the five drainage basins located within the Town. The stormwater drainage benefit districts are shown in Appendix "B", which is attached to the ordinance codified in this chapter and incorporated herein by reference.

B. General. Stormwater drainage impact fee funds shall be spent within the benefit district from which the drainage-generating development paying the fee is located, except that:
1. Where a stormwater drainage improvement on the Town's major stormwater drainage system borders and/or is located within more than one benefit district, such stormwater drainage improvement shall be considered as part of all of the benefit districts that it borders and/or is located, and stormwater drainage impact fees from all of such benefit districts may be used to fund such stormwater drainage improvement; or
2. Stormwater drainage impact fee funds may be authorized by the Town Council ~~board of trustees~~ to fund a stormwater drainage system improvement on the major stormwater drainage system CIP and the Town's major stormwater drainage system outside the benefit district from which the fees are collected, if it is demonstrated by competent substantial evidence that the feepayers from the benefit district from which the fees come will receive sufficient benefit from the stormwater drainage system improvement.

C. Establishment of Trust Fund.

1. Disposition of Fees. Proceeds collected for the stormwater drainage impact fee shall be placed in the Town stormwater drainage system impact fee trust fund, which fund is hereby established for the purpose of ensuring that the fees collected pursuant to these regulations are designated for the accommodation of impacts reasonably attributable to the proposed drainage-generating development. Proceeds collected and all interest accrued on such funds shall be used solely for stormwater drainage system facilities in the major stormwater drainage system CIP and on the Town's major stormwater drainage system within the benefit district from which the fees have been collected.
2. Investment. Any proceeds in the Town stormwater drainage system impact fee trust fund not immediately necessary for expenditure, shall be invested in interest bearing assets. All income derived from these investments shall be retained in the trust fund.

3.28.110 Refund of fees not spent.

A. General. Any stormwater drainage impact fees collected shall be returned to the feepayer or the feepayer's successor in interest (if the development subject to the fee is sold by the feepayer) if the fees have not been spent within seven years from the date the building permit for the development was issued, along with the interest earned on the fee. Provided, however, that the ~~board of trustees~~Town Council may by ordinance extend for up to three years the date at which fees must be refunded. Such an extension shall be made upon a finding that within such three year period, specified stormwater drainage improvements are planned and documented, that these stormwater drainage improvements shall be constructed within the next three years, that these improvements are reasonably attributable to the feepayer's drainage-generating development, and that the fees whose time of refund is extended shall be spent for these stormwater drainage improvements. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent.

B. Refund Procedure. The refund of fees shall be undertaken through the following process:

1. Application. A refund application shall be submitted within one year following the end of the seventh year from the date on which the building permit was issued on the proposed development. If the time of refund has been extended pursuant to subsection A. ~~Section 3.28.120(A)~~ above, the refund application shall be submitted within one year following the end of this extension. The refund application shall include the following information:
   a. A copy of the dated receipt issued for payment of the fee;
   b. A copy of the building permit; and
   c. Evidence that the applicant is the feepayer or the successor in interest to the feepayer, if relevant.
2. Refund Hearing. Upon receipt of a complete refund application, the ~~Town manager~~Town Manager shall refer such application to the appropriate Town departments or agencies for their review and recommendations, and shall schedule the matter before the ~~board of trustees~~Town Council. Written notice of the date, time and place of the hearing regarding the application shall be given not later than five days prior to the hearing to the applicant and any other person who may be affected thereby. The ~~board of trustees~~Town Council shall consider the evidence submitted in support of the refund application, the recommendations of Town staff, and any additional evidence which it deems appropriate. The refund application shall be approved if it is determined the feepayer has paid a fee which the Town has not spent within the period of time permitted under these regulations. The refund shall include the fee paid plus interest earned on the fee. In no case shall the ~~board of trustees~~Town Council have the authority to negotiate the amount of the refund.

3.28.120 Review every five years.

~~Upon compliance with Section 3.28.070(C)(2) regulations, the~~ The major stormwater drainage system CIP and these regulations shall be reviewed and evaluated by the ~~board of trustees~~Town Council at least once every five years, to determine if any modifications need to be made thereto. The purpose of this review shall be to analyze the effects of inflation on the actual costs of facilities and to insure that the fee charged new drainage-generating development activity will not exceed its pro rata share for the reasonably anticipated expansion and improvement costs of stormwater drainage system facilities necessitated by its presence.

3.28.130 General provisions.

A. No Vesting of Rights. Nothing in these Regulations, including compliance therewith, nor the payment of any stormwater drainage impact fees pursuant to these regulations, shall create nor be construed to create any vested rights.

B. Repealed. Any and all prior ordinances and municipal codes and regulations inconsistent with these regulations are hereby repealed to the extent of such inconsistency.

C. Emergency Clause. These regulations are necessary for the immediate preservation of the health, safety and welfare of the Town due to development pressures, the need for stormwater drainage system improvements and facilities necessitated by such development pressures, and because time is of the essence in fulfilling the intent and objectives of the ~~board of trustees~~Town Council in the enactment of Ordinance No 4-2000.

D. Safety Clause. These regulations are promulgated under the general police power of the Town, they are promulgated for the health, safety, and welfare of the public; and they are necessary for the preservation of health and safety and for the protection of public convenience and welfare. Further, these regulations bear a rational relation to the proper legislative projects sought to be attained.

Title 5
BUSINESS LICENSES AND REGULATIONS

Chapter 5.04 TITLE, PURPOSE AND DEFINITIONS

5.04.020 Purpose.

The purpose of ~~this title~~this General Licensing Code is to require the licensing of all business activities and enterprises physically located within the Town of Monument, or doing business within the Town of Monument, and to provide the Town with necessary information concerning:

A. Businesses within the Town, or operating within the Town;

B. The nature of the business operation;

C. The location of the business;

D. Owner information;

E. Emergency contacts;

F. Aspects of the operation of the business that may impact the health, safety, and welfare of the Town's inhabitants.

The general business licenses required by ~~this title~~this General Licensing Code shall be in addition to any other license or permit required by ~~this~~ the Monument Municipal Code or by federal or state law. The issuance of a general business license does not permit any conduct that is prohibited or that does not fully comply with the requirements of ~~this~~ the Monument Municipal Code.

5.04.030 Scope.

Unless otherwise provided in ~~this title~~this General Licensing Code or by any other ordinance within ~~this~~ the Monument Municipal Code, the rules, regulations, and requirements set forth in ~~this title~~this General Licensing Code shall apply to all licenses required by ~~this title~~this General Licensing Code.

5.04.040 Definitions.

The following terms, as used in ~~this title~~this General Licensing Code, shall have the meanings designated below, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

"Applicant" means the person(s) or business submitting a business license application to the Town ~~Clerk's office~~Clerk.

"Auction" means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

"Books" mean all financial business data.

"Business" means and includes all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the Town or anywhere else within its jurisdiction.

~~"Casual sale" means an individual, single or incidental transaction.~~

"Garage sale" means a garage, yard, or similar sale conducted solely on residential premises of the person holding the sale and held no more frequently than two times per year for no longer than three days at each time.

"Home occupation" means a business which would qualify as a "home occupation" pursuant to the provisions of the zoning ordinance of the Town; provided, however, that notwithstanding any provision of the zoning ordinance, for purposes of ~~this title~~this General Licensing Code, retail sales from the premises of the home occupation or the posting of any sign upon the premises related to the conduct of the home occupation shall result in such home occupation being classified as a business for purposes of ~~this title~~this General Licensing Code.

"Insignia" means any tag, plate, badge, decal, emblem, sticker, or any other kind of device which may be required in connection with any license.

"License" means an official grant of permission to engage in a particular business within the Town boundaries ~~limits~~, evidenced by a Town-issued form, license, insignia or tag.

"Licensee" means the person(s) or business to whom a license is granted.

"Licensing officer" means the Town Clerk or designee who shall be the licensing officer and shall perform licensing functions.

"Non-profit business" means a business which has been determined to be tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Code, and shall also include a bona fide religious organization, a political campaign and a local school activity concerning grades one through twelve (12).

"Peddler" means any person, whether a resident of the Town or not, who, on a temporary basis, goes from house to house, from place-to-place, or from street to street, conveying or transporting goods, wares or merchandise, or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

"Person" means any individual, corporation, limited liability company, business trust, estate, trust, partnership or association or any other legal entity.

"Premises" means and includes all lands, structures, places, equipment and appurtenances connected to or used in any business; and also any personal property which is either affixed to, or is otherwise used in connection with business conducted on premises.

"Principal" means any person(s) who possess(es) controlling authority, active management, supervision or control of the applicant, business, or license, or who employs others to act on their behalf subject to their general control and instruction.

"Records" mean and include, but is not limited to, the history of corporate or partnership status, trade name registration with the Colorado Department of Revenue, employee records, employee schedules, contracts for services and purchase orders.

"Solicitor" means any person, whether a resident of the Town or not, who, on a temporary basis, goes from house-to-house, from place-to-place, or from street-to-street, soliciting or taking or attempting to take orders from sale of goods, wares or merchandise, including magazines, books, personal property of any nature whatsoever for future delivery, or for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject or such order, or whether or not he or she is collecting advance payments on such orders. Such definition includes any person, who, for himself or herself or for another person hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, motel room, apartment, shop or other places within the Town on a temporary basis, for the primary purpose of exhibiting samples and taking orders for future delivery. A person is not a solicitor unless such person knocks on doors or otherwise attempts to contact or speak to the occupants of a private residence. The term "solicitor" shall not include persons who contact occupants of a private residence as representatives of a religion, a non-profit business ~~entity~~, a political campaign or a local school activity concerning grades one through twelve (12).

"Transient merchant" means any person whether as owner, agent, consignee or employee, whether a resident of the Town or not, who engages in temporary business selling and delivering goods, wares and merchandise, within the Town, and who, in furtherance of such purpose, hires, leases, uses or occupies any apartment, shop, or any street, alley, public or private parking lot or other place within the Town for the exhibition and sale of such goods, wares and merchandise, whether privately or at public auction, provided that such person, who while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery within the provisions of ~~this title~~this General Licensing Code merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

Chapter 5.08 POWERS OF TOWN CLERK

5.08.010 Definitions.

The following terms, as used in this chapter, shall have the meanings designated below, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

"Town Clerk" means the ~~duly appointed~~ Town Clerk, and includes any designee of the Town Clerk and, in the case of a vacancy, any acting or interim Town Clerk.

5.08.020 Powers of Town Clerk.

Except as otherwise provided, the Town Clerk shall have full power to grant, deny, renew, investigate, request, obtain information regarding, summarily suspend, issue cease and desist orders, suspend and revoke any license provided for in ~~this title~~this General Licensing Code. All appeals shall be filed with the Town Manager or designee.

5.08.030 Duties and functions.

The Town Clerk shall administer and enforce ~~this title~~this General Licensing Code and shall promulgate and enforce all reasonable rules and regulations necessary to operate and enforce ~~this title~~this General Licensing Code; adopt all forms necessary to operate and enforce ~~this title~~this General Licensing Code; require applicants to submit any affidavits and oaths necessary to administer ~~this title~~this General Licensing Code; investigate or cause to be investigated the qualifications or eligibility of any applicant for a license; examine the books and records of any applicant or licensee when necessary to verify license information or to administer or to enforce ~~this title~~this General Licensing Code; issue any subpoena necessary to conduct any investigation or hearing which subpoena may be enforced by application to the Municipal Court of the Town of Monument.

5.08.040 Records required.

The Town ~~Clerk's office~~Clerk shall keep a record of all licenses issued, setting forth the name of the business; the nature of the business operation; the location of the business; owner information; emergency contacts; the residence address of the licensee and the residence address of each of the individual directors, officers or principal owners of the licensee and any other information deemed pertinent by the Town Clerk. All records maintained by the Town Clerk pursuant to ~~this title~~this General Licensing Code shall be subject to the provisions of the Colorado Open Records Act.

Chapter 5.12 LICENSE REQUIREMENTS

5.12.020 One act constitutes doing business.

No person shall conduct business activities and enterprises physically located within the Town or doing business within the Town without first obtaining a license as provided for in this General Licensing Code. For the purposes of ~~this~~this General Licensing Code ~~title~~, one act of any of the following activities within the Town boundaries ~~limits~~ constitutes doing business:

A. Soliciting business, selling any goods or providing services for which a license is required;
B. Acquiring or using any vehicle or any premises in the Town for purposes requiring a license.

5.12.030 License subject to regulation.

Any person receiving a license pursuant to ~~this title~~this General Licensing Code shall be subject to all ordinances and regulations which may be in force at the time of the issuance thereof or which may be subsequently made and adopted by the Town ~~Board of Trustees~~ Council.

5.12.040 Exempt activities.

The provisions of ~~this title~~this General Licensing Code shall not apply to:

A. Any canvassing on behalf of a candidate for elective public office or for proponents of a measure to be placed on the ballot;
B. Activity consisting solely of mere delivery in the Town where no intent exists or is shown to exist to evade the provisions of this chapter;
C. The selling of newspapers on public streets or in public places in a manner otherwise in compliance with ~~this Code~~this General Licensing Code;
D. Established delivery routes, persons calling by appointment, yard sales, garage sales, and events conducted by or sponsored by the Town;

E. Any activity defined above as non-profit~~.~~; and

F. Any retailer that:

1. has a state standard retail license,
2. makes retail sales within the local taxing jurisdiction, and
~~1.~~3. either does not have a physical presence in the local taxing jurisdiction or has only an incidental physical presence.

The person claiming an exemption to this chapter has the burden of proving such exemption. Determinations regarding the application of an exemption shall be made by the Town Clerk in writing.

5.12.050 Agents responsible.

A managing agent shall be named on all business license applications. Managing agents act on behalf of the principal and may possess controlling authority, actively manage or supervise the business or license, receive process, notice or order. The managing agent is responsible with the licensee for the licensee's compliance with ~~this Code~~this General Licensing Code and federal and state law. The licensee shall immediately notify the Town ~~Clerk's office~~Clerk of any change in its managing agent.

Chapter 5.16 APPLICATIONS FOR LICENSE

5.16.010 Form of applications.

All applications for a license pursuant to ~~this title~~this General Licensing Code shall be written statements upon forms provided by the Town ~~Clerk's office~~Clerk. In the event any person knowingly makes any false statement or omits any pertinent information on any application, such act or omission shall be grounds for denial of such application or suspension and revocation of any license issued upon the basis of such false statement, and shall be grounds for prosecution for perjury.

5.16.020 Contents of applications.

The application for every license required by and issued under the authority of the Town shall contain:

A. The name of the business located within the Town or providing service within the Town, to include any DBA (doing business as) name;

B. The nature of the business operation to include the trade or profession to be performed, practiced or carried on;

C. The type of license desired;

D. The location of the business or the principal place of business if other than a local street address;

E. Owner information to include the residence address of the applicant if an individual; residence address of each of the individual principal owners if a partnership, corporation, limited liability company, business trust, estate, trust or association, or other entity, and the residence address of each of the directing officers if a corporation;

F. Emergency contacts;

G. The Colorado Department of Revenue Tax Identification Number if applicable; the individual tax identification number if applicable;

H. Any other relevant information required by the provisions pertaining to the particular license sought or any other relevant information required by the Town ~~Clerk's office~~Clerk.

Chapter 5.20 LICENSE FEES

5.20.010 Fees.

All license applications shall be accompanied by the applicable fee(s). The Town Clerk~~'s office~~ shall not accept a license application unless accompanied by the required fee(s).

All fees shall be established by resolution by the ~~Board of Trustees~~Town Council.

5.20.030 Partial payment; replacement licenses.

The Town Clerk~~'s office~~ shall not receive or permit any partial payment of an application fee or of a license fee.

Whenever a license, permit, insignia or identification card needs to be replaced, the Town Clerk~~'s office~~ is hereby authorized to duplicate the license, permit, insignia or identification upon payment of a replacement fee.

5.20.040 License terms.

The license required by ~~this title~~this General Licensing Code is for the privilege of pursuing the business, profession or occupation designated thereon and all licenses shall be issued as required by ~~this Code~~this General Licensing Code Title upon approval of the application, and they shall expire twelve (12) months from date of issue unless sooner revoked, cancelled or suspended.

5.20.050 Receipts for payment of fees.

Upon request, the Town Clerk~~'s office~~ shall issue a receipt to the applicant for money paid in advance. No receipt shall be construed as constituting approval for the issuance of a license nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of the Monument Municipal~~ Town~~ Code.

5.20.060 Unpaid fee constitutes debt.

The amount of any unpaid fee, the payment of which is required by ~~this title~~this General Licensing Code, shall constitute a debt due the Town. In addition to other legally available remedies, the Town Clerk may request the Town Attorney to institute a civil suit in the name of the Town to recover any such unpaid fee. Such remedy shall be cumulative and in addition to all other remedies and shall not bar or abate a prosecution in Municipal Court for any violation of ~~this title~~this General Licensing Code, nor bar or abate any action to suspend or revoke a license for nonpayment of the appropriate license fee.

Chapter 5.24 ISSUANCE OR DENIAL

5.24.010 Issuance or denial.

Unless otherwise limited by applicable state law, the Town Clerk shall grant an application for license under ~~this title~~this General Licensing Code unless it is determined that:

A. The required fees have not been paid;

B. The application or information supplied in the application is incomplete or contains false, misleading, or fraudulent statements. If the application or information is incomplete, the application and fee shall be returned to the applicant for completion and re-submittal;

C. The applicant is not qualified under federal or state law or Town ordinances to engage in the activity authorized by the license;

D. The applicant has had a similar type business license revoked or suspended in this or any other locality in the twelve (12) months immediately preceding the date of the application;

E. The applicant has been proved to have engaged in false or misleading advertising, falsified any business records, or participated in any unlawful business practices in a similar business within the twelve (12) months immediately preceding the date of the application;

F. The business, premises, building or land use does not comply with the requirements of the Town Codes or the codes of entities having jurisdiction over activities conducted within the Town, including, but not limited to ~~this title~~this General Licensing Code, the Land Use Code of the Town of Monument as it currently exists or as it may be subsequently amended, the Zoning Code of the Town of Monument as it currently exists or as it may be subsequently amended, the Uniform Building Code and the Uniform Fire Code;

G. Approval of the business license itself does not necessarily constitute approval for the commencement of business operations. All other applicable federal, state, and local licenses must be obtained at the time required by federal, state and local law;

H. All other specific requirements of a particular license have not been met.

In the event of a denial, the Town Clerk shall mail or deliver to the applicant a written order of denial stating the reason or reasons for the denial within ten (10) days of the denial.

5.24.020 Appeal.

Any applicant may appeal the denial of the application by filing a written appeal, stating the grounds therefore, with the Town Manager within ten (10) days following the date of denial of the application.

In the event an appeal is filed, it shall be heard by the Town Manager or other designee of the ~~Board of Trustees~~Town Council within fifteen (15) days after it is filed. If a postponement of the hearing is requested, the applicant must file a written request for continuance at the same time the appeal is filed. The Town Manager or designee shall have the discretion to grant or deny the request for continuance. At the appeal hearing, the Town Manager, or designee, shall determine whether there is competent evidence to support the decision to deny the license and shall either uphold the decision and deny the license or overturn the decision and grant the license. Failure to appeal in accordance with the provisions of this section shall be deemed a waiver of the right to appeal pursuant to Colorado Rules of Civil Procedure 106 by virtue of a failure to exhaust administrative remedies.

5.24.030 Posting—Display of license.

A. Every license issued by the Town shall be posted during the period such license is valid. Such license shall be posted in a conspicuous place and be visible from the principal entrance of the business. When such license expires it shall be removed.

B. It is the duty of the licensee to exhibit the license upon the request of any peace officer, the Town ~~Clerk's office~~Clerk or other official of the Town.

5.24.050 Renewal of license.

A. At any time within sixty (60) days prior to the expiration of the current license, a licensee may make application for a license renewal for the succeeding year and pay the required fees. Unless otherwise provided by ~~this title~~this General Licensing Code, if application is so made and no action or proceeding is pending against the licensee for suspension or revocation of the current license or licenses, and upon payment of the required fee, the licensee may continue the business for the succeeding period unless or until the application for license renewal is denied.

B. In the event a suspension or revocation proceeding is pending when the licensee applies for renewal, the business may continue during the pendency of the proceeding, but the renewal application shall not be acted upon until the suspension or revocation proceeding has been completed.

C. Every renewal application shall be evaluated in accordance with the requirements of ~~this title~~this General Licensing Code applicable to the initial issuance of a license.

D. Whenever any renewal application and accompanying license fee payment is not received on or before the expiration date of any license issued for the current license term, and the licensee continues to engage in the business for which the license was issued, an additional penalty in an amount set by resolution of the ~~Board of Trustees~~Town Council per month for each month of delinquency beyond any applicable grace period shall be imposed and collected. The Town Clerk shall be authorized to waive or adjust any and all of such penalty and additional fee whenever in the ~~clerk~~Clerk's judgment the delinquency is not the fault of the licensee or when collection or payment would constitute an injustice.

E. The failure of a licensee to exercise the privilege of renewal granted under a license for a period of sixty (60) days beyond the expiration of the license shall be prima facie evidence that the renewed license has been abandoned.

Chapter 5.28 APPROVAL OR INSPECTION OF NEW LICENSES

5.28.010 Approval or inspection of new licenses.

A. Upon receipt of an application for a business license properly filed with the Town ~~Clerk's office~~Clerk and upon payment of the non-refundable application fee, the Town Clerk shall immediately stamp the application as received and route the application to the Town Planning Department, Town police department, and applicable Fire Protection District. Each department or agency shall promptly conduct an investigation of the applicant, application, and the proposed business and premises in accordance with its responsibilities under law and as provided pursuant to ~~this title~~this General Licensing Code. The investigation shall be completed within thirty (30) days of receipt of the application by the Town ~~Clerk's office~~Clerk. At the conclusion of its investigation, each department or agency shall indicate on the routing slip of the application its approval or disapproval of the application, date it, sign it, and, in the case of disapproval, state the reasons therefor. The Monument police department shall only be required to acknowledge receipt of the application and provide any information required during background investigations when applicable. Failure of a department or agency to respond within the required time shall be construed as an approval of the business license application for its specific department or agency, but shall not be construed as authorizing any operation in violation of the federal or state law or Town ordinances.

B. A department or agency shall recommend disapproval of an application if it finds that the proposed business will be in violation of any provision of any statute, code, ordinance, regulation, or other law enforced by that agency and having a direct bearing on the proposed business. If a recommendation for disapproval is made it shall include a written statement of the grounds of disapproval.

5.28.030 Authority of inspectors.

All persons authorized under the "authority" to inspect licensed premises and businesses shall have the authority to enter and inspect, with or without a search warrant, at all reasonable times, and in a reasonable manner. "Authority" means any police officer, Fire Marshall, Town Clerk and any designee of the Town of Monument.

A. Those premises for which a license is required;

B. Those premises for which a license was issued and which, at the time of inspection, are operating under such license;
C. Those premises for which a license has been revoked or suspended;
D. Those books and records required to be kept by ~~this title~~this General Licensing Code.

Chapter 5.32 AUTHORITY

5.32.010 Authority.

The ~~Board of Trustees~~Town Council hereby finds that the suspension or revocation of a license may be necessary in the public interest when a licensee fails to operate the business or exercise the privileges associated with the license in accordance with the provisions of ~~this title~~this General Licensing Code. The Town Clerk is authorized to initiate suspension or revocation proceedings against a licensee when cause as defined in ~~this title~~this General Licensing Code exists to suspend or revoke the license. The Town Clerk is authorized to conduct suspension or revocation hearings in accord with the provisions of ~~this title~~this General Licensing Code.

5.32.020 Grounds for suspension or revocation.

In addition to any other provisions of ~~this Code~~this General Licensing Code or other ordinances of the Town, the Town Clerk may suspend or revoke a license or permit issued under ~~this title~~this General Licensing Code if:

A. It appears that the activity conducted pursuant to such license is a public nuisance as defined by ~~this~~ the Monument Municipal Code or statute or violates any federal, state or local rule, regulation or law which has a reasonable relationship to the conduct of the licensed business.
B. The applicant is not qualified under federal or state law or by experience, training, or education to engage in the activity authorized by the license.
C. The licensee fails to file any documents, reports, or such other information required pursuant to ~~this title~~this General Licensing Code or as may be reasonably required by the Town Clerk or other Town officer or agency.
D. The business, place of business, premises, building, or land use does not comply with the requirements of the Town Codes, including but not limited to the Zoning and Land Use Code or to the codes of agencies or entities having jurisdiction over the activities conducted within the Town including, but not limited to, the Uniform Building Code, the Uniform Fire Code, the Colorado Liquor Code, and Colorado Revised Statutes directly pertaining to the activities permitted by the license.
E. Prior or ongoing violations of law occur in connection with, on, or about the place of business.
F. The licensee is convicted of any violation of federal, state, or municipal law having a direct bearing upon or relation to the work or services performed under the license, or the licensee's ability to perform any work or services under the license.
G. The licensee has been convicted within the last five years of any conduct constituting fraud or misrepresentation related to the management of a business, or any offense that would create a danger to the public health, safety, or welfare of the general public if the licensee were to engage in such conduct after the licensee was issued.
H. The licensee or any agent or employee of the licensee violates any provision of ~~this title~~this General Licensing Code pertaining to the license or any regulation or order, relating to the license, lawfully made under the authority of ~~this title~~this General Licensing Code.

5.32.030 Fine in lieu of suspension.

In order to encourage compliance with the provisions of ~~this title~~this General Licensing Code and to resolve compliance issues at the administrative level, the ~~Board of Trustees~~Town Council hereby finds that it is prudent to permit a licensee to choose to pay a fine in lieu of suspension.

A. A licensee who has not been the subject of an order to show cause or a suspension or revocation hearing within the previous twelve (12) months and who makes a written request to the Town Clerk is eligible, at the sole discretion of the Town, to receive a fine in lieu of suspension.

B. A licensee may make written request to the Town Clerk for payment of a fine in lieu if, after issuance of an order to show cause and at least ten (10) days before commencement of a suspension or revocation hearing, the licensee admits the alleged violations in writing. The licensee may include in the written request any mitigating factors the Town Clerk should consider when calculating the fine. After receiving the request, the Town Clerk shall vacate the scheduled hearing and calculate the fine.

C. A licensee may employ the same procedures contained in subsection B of this section to request a fine in lieu of suspension if, after a hearing, a suspension of not more than fifteen (15) days is imposed by the Town Clerk. In the event a fine is determined to be appropriate by the Town Clerk, the suspension shall be held in abeyance for a period of one year.

D. The fine to be imposed may not exceed one thousand dollars ($1,000.00). The Town Clerk in considering the appropriate fine shall consider the type of business, the length of time the licensee has held the license, the nature of the violation(s) and any mitigating or aggravating factors.

E. By requesting a fine in lieu of suspension, the licensee expressly waives the right to an appeal on the merits.

5.32.050 Delegation of decision-making authority to hearing officer.

A. Upon receipt of an appeal pursuant to Sections 5.32.020 or 5.32.030 the Town Council shall, by resolution, appoint a hearing officer, who may be an independent third-party hired solely for the purpose of conducting the hearing, or any such other person or odd-numbered body of persons the Town Council deems qualified to conduct the hearing. In the event more than one person is so appointed, the term "hearing officer" shall mean the appointed body. At the conclusion of the evidence in the appeal hearing, the hearing officer shall make written findings of fact and conclusions regarding the suspension or revocation of the license. ~~He or she~~The hearing officer may, at the conclusion of the hearing, take the matter under advisement and issue the written findings of fact and conclusions within seven days of the conclusion of the hearing. Any conclusion, finding, decision or action taken by the hearing officer shall be reviewable only by the El Paso County District Court.

B. The hearing officer may, based upon the findings and evidence, take any of the following actions:
   1. Uphold the Town Clerk's denial, suspension or revocation of the license;
   2. Overturn the Town Clerk's decision;
   3. Modify the decision of the Town Clerk in which case the hearing officer has the option to suspend a license for no more than six months; issue a suspension and then order it be held in abeyance on the condition the licensee has no subsequent violations for a period of one year from the date of the suspension; or revoke the license;
   4. A revocation of the license may be made only if the findings of fact and conclusions indicate any of the following:
      a. The licensee has no regard for the privileges and responsibilities granted by the license.
      b. The licensee cannot operate the licensed business in a lawful manner.
      c. The licensee's conduct rises to the level of a threat to the health, safety or welfare of the public.
      d. A period of suspension is insufficient to correct the licensee's behavior.

C. A suspension shall become effective immediately upon issuance of the hearing officer's decision unless the decision states otherwise.

D. A revoked license may not be renewed. A licensee who has had a license revoked may not reapply for a new license pursuant to this chapter for a period of two years from the date of the hearing officer's decision.

E. A denial of a license shall be upheld if any of the reasons for the denial, enumerated in Section 5.24.010, have been shown to exist.

F. The hearing officer shall serve a copy of the findings of fact and conclusions, and any order of denial, suspension or revocation upon the appellant. Service may be accomplished by either hand-delivering it to the appellant or by mailing it via first-class return-receipt requested mail, postage prepaid, to the last address furnished to the Town ~~Clerk's office~~Clerk by the appellant. If the appellant has a permanent business location, a copy of the findings of fact and conclusions may be affixed to the principal entrance of the licensed premises, which is deemed to be the principal place of business or the main office, or may affix a copy to a prominent structure on the licensed premises.

G. Upon the effective date of the denial being upheld, suspension or revocation of any license required for a business or activity, the licensee shall cease and desist from operation of the business or activity.

~~G.~~

5.32.060 Cease and desist orders.

A. In addition to any other consistent provision in ~~this title~~this General Licensing Code, a business will be deemed to be unlicensed if it possesses any of the following characteristics:

1. The business directly or indirectly conducts any activity or enterprise for which a license is required without having obtained the required license;
2. The business operates while any required insurance coverage has lapsed or been cancelled;
3. The business operates after failing to renew a business license within thirty (30) days after the end of the license period.

B. If a business is deemed unlicensed the Town Clerk may issue a cease and desist order which shall be in writing and shall state that the business is unlicensed and order the business immediately to cease unlicensed operation.

C. Upon receipt of the notice and order, the unlicensed business must cease all operations immediately and cannot resume operations until properly licensing the business in accord with the provisions of ~~this title~~this General Licensing Code and, if such notice and order is issued pursuant to A.2, above, until proof of required insurance coverage is provided.

D. The Town Clerk may seek any remedy available in law or equity if the unlicensed business fails to comply with a cease and desist order within seventy-two (72) hours of the issuance of a cease and desist order.

5.32.070 Summary suspension.

The ~~Board of Trustees~~Town Council finds and determines that it is in the interest of the Town to take action against those licensees who violate any federal, state or local offenses pertaining to weapons, firearms, controlled substances, unlawful sexual behavior, or offenses relating to morals, while exercising the privileges of the license or while on the licensed premises. This type of conduct, which rises to the level of an immediate threat to the health, safety or welfare of the public, constitutes an emergency and it is appropriate for the Town Clerk to summarily suspend the licensee's license.

A. Upon a finding that the licensee has violated the policy established in the above paragraph relative to summary suspension, the Town Clerk shall issue a notice of summary suspension and shall schedule a hearing before the Town Clerk to determine whether to suspend or revoke the license. The summary suspension hearing shall not be held more than thirty (30) days after the issuance of the notice. If the licensee waives the time limit in writing, the hearing shall be held no more than sixty (60) days after issuance of the notice. At the summary suspension hearing, the burden shall be upon the licensee to show cause why the notice of summary suspension should not be made a final order of suspension or revocation. The Town Clerk's decision to summarily suspend or revoke the license shall be final.

B. The notice of summary suspension shall be in writing and shall state the grounds for its issuance, cite this section as authority for issuing the notice, order the licensee to cease operations immediately, and set a date for a summary suspension hearing before the Town Clerk.

C. The Town Clerk shall serve a written notice of summary suspension upon the licensee by posting the notice on the premises, by personally serving the notice upon the owner or manager of the business, by mailing the notice via first-class certified U.S. mail, or by a combination of these methods.

5.32.080 Warning letter.

The Town Clerk shall have the authority to issue a warning letter to any licensee who violates any provision of ~~this title~~this General Licensing Code, but the provisions hereof allowing the issuance of warning letters shall not preclude the taking of any suspension, revocation or other licensing action in any order. A warning letter may be issued if the following conditions are met:

A. The Town Clerk, in an exercise of discretion, finds that the licensee has committed a minor violation and the licensee is likely to comply with requirements in the future;

B. No more than sixty (60) days have passed since the Town ~~Clerk's office~~Clerk first had knowledge of the minor violation;

C. The licensee has not been the subject of suspension or revocation proceedings prior to the date of the minor violation or received another warning letter for any violation of ~~this title~~this General Licensing Code within two years of the date of the minor violation.

A warning letter shall describe the minor violation and shall inform the licensee that no further administrative action will be taken against the licensee so long as the licensee has no other violations of any provision of ~~this title~~this General Licensing Code prior to their renewal. If the licensee commits another violation prior to their renewal, the Town Clerk shall retain the right to initiate suspension or revocation proceedings against the licensee.

Chapter 5.36 REFUSE HAULERS

5.36.010 License requirements.

It is unlawful for any person to collect or haul, or cause to be collected or hauled, over the streets, alleys or other public places within the Town any refuse, except such refuse as is accumulated at the person's residence or place of business, without first having been issued a license therefore by the Town ~~Clerk's office~~Clerk. In addition to the information required by this ~~Chapter~~chapter~~ 5.16~~ of ~~this title~~the General Licensing Code, an applicant for a refuse haulers license shall provide the following:

A. Application requirements:
1. Number of vehicles to be used in collection or hauling of refuse;
2. Proof that the vehicle or vehicles to be used by the applicant in the collection or hauling of refuse have first been inspected and approved as to their compliance with the provisions of ~~this title~~this General Licensing Code, or any other applicable law of the Town and state or federal licensing requirements;
3. Proof that the vehicle or vehicles to be used by the applicant in the collection or hauling of refuse is/are current on their licensing, registration and insurance and will remain current throughout the time set forth on their business license;
4. Proof that the vehicle or vehicles to be used by the applicant in the collection or hauling of refuse are in sanitary condition and do not constitute or create a health hazard;

5. The applicant has motor vehicle liability insurance issued by an insurance carrier authorized to do business in the state of Colorado in the sum of not less than one hundred fifty thousand dollars ($150,000.00) for damages from or on account of any bodily injury to, or the death of, each person as the result of any one accident; in the sum of not less than one hundred fifty thousand dollars ($150,000.00) for damages to the property of others as the result of any one accident, and in the total sum of not less than four hundred thousand dollars ($400,000.00) for damages for or on account of any bodily injury to or the death of all persons and for damages to the property of others;

B. Performance Standards:

1. All licensed refuse vehicles must have a tightly enclosed body to prevent refuse from spilling. Every such vehicle must also have a durable canvas or similar or secure covering, large enough to cover all of the refuse hauled, and such covering must be tied down or otherwise securely fastened in place. Complete covering of the refuse as loaded on the vehicle shall be required only in route from the Town to the disposal site after the last customer for the particular haul has been served. The name, address and telephone number of the licensed refuse hauler shall be labeled in letters not smaller than three inches in height on each side of the vehicle. The license plate issued for each vehicle shall be prominently displayed on the vehicle;
2. The applicant will transport and deposit all refuse collected within the Town at a licensed refuse disposal site;
3. The applicant has complied with all applicable provisions of the Monument Municipal Code ~~this title~~ or any other provisions of any ordinance or code of the Town now or hereafter in force relating to the collecting, hauling or depositing of refuse;
4. That adequate arrangements are made for storing the vehicles outside of the corporate limits of the Town or that they are stored in a fenced enclosure that is one thousand five hundred (1,500) feet from any residence and in compliance with the Zoning and Land Use Codes of the Town of Monument;
5. The applicant shall provide trash pickup service no less frequently than provided in the rates charged to the customer.

Chapter 5.38 LIQUOR LICENSE

5.38.010 Liquor license applications and permits.

It is unlawful for any person to operate a liquor establishment within the Town without first having been issued a business license by the Town ~~Clerk's office~~Clerk. In addition to the business license requirements of ~~this title~~this General Licensing Code, liquor establishments shall have and maintain all necessary liquor licenses and permits, which are issued in conjunction with the Colorado Liquor Enforcement Division and require approval from the Town Council ~~Board~~, acting as the Local Liquor Licensing Authority pursuant to Section 44-3-103(27), C.R.S. ~~§ 12-47-311(1)~~, as ~~when~~ applicable.

5.38.020 Renewals, transfers, and modification of premises applications.

The Town Council, acting as the Local Liquor Licensing Authority, hereby elects to exercise local control over the approval of applications for liquor license renewal, transfer of ownership, and modification of premises, and authorizes the Town Clerk to approve such applications administratively in accordance with this section except where, upon reasonable investigation or evidence, the Town Clerk believes there may exist good cause for denial of such application pursuant to Section 44-3-301, et seq., C.R.S., in which case the Town Clerk shall refer such application to the Local Licensing Authority, and a hearing thereon shall be held.

The provision of this section notwithstanding, the Town Clerk shall report to the Colorado Liquor Enforcement Division, the name of the organization to which the renewal, transfer and/or modification of premises was approved, as well as all supporting documentation required by the Division.

Upon receipt of an application for a liquor license renewal, transfer of ownership, or modification of premises, the Town Clerk shall assemble the file of the applicant and review the file to determine whether "good cause" is present for non-renewal, transfer of ownership, or modification of premises. Whether "good cause" is present is a fact-specific inquiry depending on the circumstances of the case, and may be based on evidence that continuation of the license would be contrary to the public interest, as well as the conduct of the licensee. If the Town ~~Clerk's office~~Clerk review indicates no facts or circumstances supporting "good cause" for non-renewal or transfer of ownership, the Town Clerk shall approve the renewal application, transfer of ownership, or modification of premises application at the local level and forward the application to the State. However, in the event the renewal application, transfer of ownership application, or modification of premises application shows good cause exists for non-renewal, non-transfer of ownership, or non-modification of premises, or is made by a financial institution which came into possession of the license by virtue of a deed in lieu of foreclosure, a hearing shall be held before the Town Council.

5.38.030 Distance restrictions.

No business license application shall be approved for any business that possesses, is required to possess, or intends to apply for or renew any license to manufacture or sell alcohol beverages that would be prohibited from being issued because of the proximity to any public or parochial school or the principal campus of any college, university, or seminary. ~~any of the following types of liquor licenses; manufacturer's license (brewery, winery, distillery or rectifier), wholesaler's liquor license (vinuous and spirituous, and/or wholesaler's beer license (malt liquor), importer's license (malt liquor, vinuous and spirituous liquor), limited winery license, nonresident manufacturer's license (malt liquor), if the business establishment is located within five hundred (500) feet of any public or parochial school. The distance is to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access.~~

Chapter 5.40 SEXUALLY ORIENTED BUSINESSES

5.40.020 Definitions.

Words and phrases used in this chapter shall have the following meanings ascribed to them:

"Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

"Adult bookstore," "adult novelty store" or "adult video store" means:

A. A commercial establishment which: (1) devotes a significant or substantial portion of its stock-in-trade or interior floor space to; (2) receives a significant or substantial portion of its revenues from; or (3) devotes a significant or substantial portion of its advertising expenditures to the promotion of: the sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;

B. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishment from being categorized as an adult bookstore, adult novelty store or adult video store so long as the provisions of subdivision 1 above are otherwise met.

"Adult cabaret" means a night club, supper club, dance club, or other such entertainment establishment whether or not such establishment has a fermented malt beverage or spirituous and venous liquor license which features: (1) persons who appear nude or in a state of nudity or semi-nude; or (2) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

"Adult motel" means a motel, hotel or similar commercial establishment which: (1) offers public accommodations, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or (2) offers a sleeping room for rent for a period of time less than ten (10) hours; or (3) allows a tenant or occupant to sub rent a sleeping room for a time period of less than ten (10) hours.

"Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions depicting or describing specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

"Adult theatre" means a theater, concert hall, auditorium or similar commercial establishment which, for any form or consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

"Church" means churches, synagogues, places of worship and other institutions dedicated to religious objectives.

"Employee" means a person who works or persons in and/or for a sexually oriented business, regardless of whether or not the person is paid a salary, wage or other compensation by the operator of the business.

"Establishment" of a sexually oriented business means and includes any of the following:

A. The opening or commencement of any such business as a new business;
B. The conversion of an existing business into a sexually oriented business;
C. The addition of a sexually oriented business to any other existing sexually oriented business; or
D. The relocation of a sexually oriented business.

"Licensing officer" means the Town Clerk or designee.

"Manager" as used in this Chapter means an operator, other than licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or in otherwise responsible for the operation of the business.

"Nudity" or "state of nudity" means: (1) the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (2) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

"Nude model studio" means any place where a person, who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

"Operator" means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

"Peep booth" means a viewing room of less than one hundred fifty (150) square feet of floor space.

"Permittee" and/or "licensee" means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

"Person" means an individual, sole proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

"Premises" or "permitted or licensed premises" means any premises that requires a license and/or permit and that is classified as a sexually oriented business.

"Principal owner" means any person owning, directly or beneficially: (1) ten (10) percent or more of membership interests in a limited liability company; or (2) in the case of any other legal entity, ten (10) percent or more of the ownership interests in the entity.

"Private room" means a room in an adult motel that is not a peep booth, has a bed and a bath in the room or adjacent room, and is used primarily for lodging.

"Public park" means any park, recreation area or facility, open space area or trail which may be used by the general public, either with or without payment of a fee.

"Residential district" means any zoning district in the Town where residential uses are permitted either as a use by right or a conditional use including mobile home and modular home uses.

"Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

"Sexual encounter establishment" means a business or commercial establishment, that as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas or activities when one or more of the persons is in a state of nudity or semi-nude. An adult motel will not be classified as sexual encounter establishment by virtue of the fact that it offers private rooms for rent.

"Sexually oriented business" means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theatre, adult theatre, sexual encounter establishment, or nude model studio. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

"Specified anatomical areas," as used in this chapter, means and includes any of the following:

A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
B. Human male genitals in a discernible turgid state, even if completely or opaquely covered.

"Specified criminal acts" means sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity, prostitution, pandering, or tax violations.

"Specified sexual activities" means and includes any of the following:

A. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
C. Masturbation, actual or simulated; or
D. Human genitals in a state of sexual stimulation, arousal or tumescence;
E. Excretory functions as part of or in connection with any of the activities set forth in subdivisions A through D of this subsection.

"Transfer of ownership or control of a sexually oriented business" means and includes any of the following:

A. The sale, lease or sublease of the business;
B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;
C. The establishment of a trust, management arrangement, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

"Zoning ordinance" means Chapter 18.03 ~~Title 17~~ of ~~this~~ the Monument Municipal Code.

5.40.030 License requirements.

A. It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Town ~~Clerk's office~~Clerk. In addition to the license requirements of ~~this title~~this General Licensing Code, sexually oriented business applicants shall provide any other pertinent information requested by the Town ~~Clerk's office~~Clerk for the purpose of administering the provisions of this ~~title~~ chapter, to include, but not limited to the following:
   1. If the applicant is an individual or a partnership, the individual or each partner shall state his or her legal name and any aliases and submit satisfactory proof that he or she is twenty-one (21) years of age;
   2. If the applicant is a legal entity, the person shall state its complete name, the date and place of its organization, evidence that it is in good standing under the laws of the state in which it is organized, and if it is organized under the laws of the state other than Colorado, that it is registered to do business in Colorado, the names and capacity of all officers, directors, managers and principal owners, and the name of the registered agent and the address of the registered office for service of process, if any;
   3. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state the sexually oriented business' fictitious name;
   4. A registered manager application and license must be on file providing the managers name, date of birth, address and other information requested by the ~~Clerk's office~~Clerk;
   5. Whether the applicant or any of the other individuals listed pursuant to subsections A.1. and A.2. ~~(A)(1) and (2)~~ of this section has had a previous license/permit under this or other similar sexually oriented business ordinances from another town, city or county denied, suspended or revoked, and, if so, the name and location of the sexually oriented business for which the license/permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation;
   6. Whether the applicant or any other individuals listed pursuant to subsections A.1. and A.2. ~~(A)(1) and (2)~~ of this section has been a partner in a partnership or a principal owner of a corporation or other legal entity whose license/permit has previously been denied, suspended or revoked, and, if so, the name and location of the sexually oriented business for which the license/permit was denied, suspended or revoked as well as the date of denial, suspension or revocation;
   7. Whether the applicant or any other individual listed pursuant to subsections A.1. and A.2. ~~(A)(1) and (2)~~ of this section holds any other licenses/permits under this chapter or other similar sexually oriented business ordinance from another town, city or county and, if so, the names and locations of such other permitted businesses;
   8. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any;
   9. The applicant's mailing address and residential address;
   10. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be oriented to the north or to some designated street or object and shall be drawn to a designated scale or drawn with marked dimensions of the interior of the

premises to an accuracy of plus or minus six inches. The licensing officer may waive the foregoing diagram for renewal applications of the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. If the sexually oriented business has or will have a peep booth or booths subject to the provisions of Section 5.40.100 ~~5.40.170~~, the sketch shall show the locations of each manager's station and designate any portion of the premises in which patrons will not be permitted;

11. A current certificate and straight-line drawing prepared within thirty (30) days prior to an initial application by a Colorado registered land surveyor depicting: (a) the property lines and the structures of the property to be certified; (b) the property lines of any church, school, dwelling unit (single or multiple), public park or residential district within one thousand five hundred (1,500) feet of the property to be certified; and (c) the property lines and structures of any other sexually oriented business within one thousand five hundred (1,500) feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted;
12. If a person who wishes to operate a sexually oriented business is an individual, he or she must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each principal owner of the applicant must sign the application for a license as applicant.
13. The license, if granted, shall state on its face the name of the person or persons to whom it is granted.

B. In the event that the Town Clerk determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, the Town Clerk shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. The time period for granting or denying a license/permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

C. The fact that a person possesses other types of town, city, county or state licenses/permits does not exempt him or her from the requirement of obtaining a sexually oriented business license.

5.40.50 Denial of license.

In addition to applicable provision of ~~this title~~this General Licensing Code, a sexually oriented business may be denied a license if an applicant is under twenty-one (21) years of age.

5.40.60 Suspension of license.

In addition to applicable provision of ~~this title~~this General Licensing Code, a sexually oriented business may be suspended for the following reasons:

A. A licensee, or an employee of a licensee, has operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, such determination being based on investigation by the division, department or agency charged with enforcing such rules or laws. In the event of such a statute, code, ordinance or regulation violation, the Town Clerk shall promptly notify the licensee of the violation and shall allow the licensee a seven-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven-day period, the Town Clerk shall forthwith suspend the license and shall notify the licensee of the suspension;

B. A licensee, or an employee of a licensee, has engaged in an unauthorized license transfer. In the event the Town Clerk suspends a license on the ground that a licensee engaged in an unauthorized license transfer, the Town Clerk or designee shall forthwith notify the licensee of the suspension. The suspension shall remain in effect until the provisions of the suspension have been satisfied;

C. A licensee, or an employee of a licensee, has operated the sexually oriented business in violation of the hours of operation provisions set forth in this chapter.

5.40.070 Revocation of license.

In addition to applicable provision of ~~this title~~this General Licensing Code, a sexually oriented business license may be revoked for the following reasons:

A. A licensee or an employee has knowingly allowed possession, use or sale of controlled substances (as defined in Section 18-18-102 ~~Part 3 of Article 22 of Title 12~~, C.R.S.) in or on the premises;
B. A licensee or an employee has knowingly allowed prostitution or specified sexual activities in or on the premises;
C. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the license was suspended;
D. On two or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were the licensee or an employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the license/permit;
E. A licensee is delinquent in payment to the Town or state for any taxes or fees;
F. The licensee or an employee has operated more than one sexually oriented business within the same building, structure, or portion thereof.

When the Town Clerk revokes a license/permit, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective.

Chapter 5.44 MASSAGE BUSINESS

5.44.010 Definitions.

The following terms, as used in this chapter, shall have the meanings designated below, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

"Massage" means massage body of another for medical, remedial or hygienic purposes, including, but not limited to, rubbing, stroking, kneading or tapping with the hand or an instrument or both.

"Massage business ~~parlor~~" means an establishment providing massage, but it does not include training rooms of public or private schools accredited by the State Board of Education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams, or licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is not a massage business ~~parlor~~. For purposes of this definition ~~Subsection~~, *massage therapist* means a person who was graduated from a massage therapy school accredited by tile state educational board or division charged with the responsibility of approving private occupational schools, or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least five hundred (500) hours of training in massage therapy. For purposes of this definition ~~subsection~~, a massage therapy school may include an equivalency program approved by the state ~~stale~~ educational board or division charged with the responsibility of approving private occupational schools.

5.44.020 Licenses required.

It is unlawful for any person to operate a massage business without a valid massage business license issued by the Town ~~Clerk's office~~Clerk. If an inspection reveals the practice of massage without a valid license, the person shall be charged with a misdemeanor pursuant to Sections 12-235-115 and 12 20-407(1)(b), C.R.S. ~~12-35.5-115.~~

5.44.030 License Requirements.

All massage businesses must operate in compliance with the Massage Therapy Practice Act, Article 235, Title 12, C.R.S. ~~12-35.5-101 through 12-35.5-120~~.

Chapter 5.48 ESCORT SERVICES

5.48.010 Definitions.

The following terms, as used in this chapter, shall have the meanings designated below, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

"Escort" means any person who, for a salary, fee, tip, commission, hire, profit, or other consideration, makes oneself available to the public for the purpose of accompanying another person for companionship, or agreeing or offering to privately model lingerie or to privately perform erotic dancing for another person.

"Escort bureau" means any business, agency, or person who, for a salary, fee, tip, commission, hire, profit or other consideration, furnishes, offers to furnish, advertises to furnish, or arranges for persons to accompany other persons for companionship, or who, for a salary, fee, tip, commission, hire, profit or other consideration, furnishes, offers to furnish, advertises to furnish or arranges for persons to privately model lingerie or privately perform erotic dancing for another person.

"Escort patron" means any person who has attained the age of eighteen (18) years or more or any person under the age of eighteen (18) for whom the parent or legal guardian consents in writing, who seeks the services of an escort, escort bureau, or escort service runner.

"Escort service runner" means any person who, for a salary, fee, tip, commission, hire, profit or other consideration, acts in the capacity of an agent for an escort bureau by contacting or meeting with escort patrons whether or not such person is employed by such escort bureau or by another business or is self-employed.

"Licensed premises" means any discrete, identifiable location at which a licensed activity is permitted and, in fact, is conducted under the authority of any one license.

"Specified anatomical areas" mean and include:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point above the top of the areola;
2. Human male genitals in a discernible turgid state even if completely and opaquely covered.

"Specified sexual activities" mean acts, simulated acts, exhibitions, representations, depictions or descriptions of:

1. Human genitals in a state of sexual stimulation or arousal;
2. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;
3. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal;

4. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function;
5. Flagellation, mutilation or torture for purposes of sexual arousal, gratification, or abuse.

5.48.020 License required.

1. In addition to the licensing requirements of ~~this title~~this General Licensing Code, escort services shall also comply with the following:
2. Escort. It is unlawful for any person to hold oneself out as an escort or employ to the public or accept compensation as an escort, or conduct escort services or activities, without first having obtained a valid photographic identity card and a license issued by the Town.
3. Escort Bureau. It is unlawful for any person to operate, manage or to employ anyone for an escort bureau without first having obtained a valid photographic identity card and a license.
   a. It is unlawful to allow the provision or procurement of any escort bureau to or for any person under the age of eighteen (18) years without the written consent of such person's parent or legal guardian.
   b. It is unlawful to permit any person under the age of eighteen (18) years to be employed in an escort bureau.
4. Escort Service Runner. It is unlawful for any person to represent oneself as an escort service runner or employ to the public or accept compensation as an escort service runner, or conduct escort runner services or activities, without first having obtained a valid photographic identity card and a license.
5. Separate Licenses. Every escort or escort service runner must obtain a separate and distinct license for each escort bureau for which they are employed, including self-employment.

5.48.030 Conformance to law required.

All licenses issued pursuant to this chapter must comply with the provisions of the Colorado Escort Services Code, Article 25.5, Title 12, Colorado Revised Statutes as well as the provisions of ~~this~~ the Monument Municipal Code.

5.48.040 Application and renewal requirements.

1. It is unlawful for any person to operate an escort service~~s~~ business without a valid escort services business license issued by the Town ~~Clerk's office~~Clerk. In addition to the license requirements of ~~this title~~this General Licensing Code, escort service applicants shall provide any other pertinent information requested by the Town ~~Clerk's office~~Clerk for the purpose of administering the provisions of this chapter ~~title~~. No individual shall be issued a license as an escort or as an escort service runner unless that person complies with the following:
   a. Has attained eighteen (18) years of age;
   b. Is a resident of the state of Colorado.
2. No individual shall be issued a license as an escort bureau, and no person other than an individual shall be issued a license as an escort service runner unless that person complies with the following:
   a. If an individual, he or she has attained the age of eighteen (18) years;
   b. If a partnership or limited partnership, all partners have attained the age of eighteen (18) years;
   c. If a corporation, the directors and all officers thereof have attained the age of eighteen (18) years;
   d. If a corporation, the corporation is qualified with the Secretary of State to do business in this state or is incorporated under the laws of this state.
   e. No escort bureau or escort service runner shall employ the services of any person who has not obtained a valid identity card and license through the Town ~~Clerk's office~~Clerk.
3. All renewal applications for licenses issued under the provisions of this chapter must be submitted no less than thirty (30) days prior to the expiration date of the license. The Town ~~Clerk's office~~Clerk is not

authorized to accept any renewal applications filed after this deadline. Licensees failing to file a renewal application prior to this deadline shall be required to apply for a new license.

4. In addition to any other criteria contained in this chapter, the applicant's or licensee's criminal history, any conviction or guilty plea to a charge based upon acts of dishonesty, fraud, deceit, violence, weapons, substance abuse or, narcotics, sexual misconduct, or prostitution-related misconduct of any kind, regardless of the jurisdiction in which the act was committed, may be considered in a decision to grant, renew, revoke or suspend a license.

5.48.080 Employees; records required.

A. The manager, principal or owner of an escort bureau shall keep and maintain records for all employees, independent contractors, escorts and escort service runners. These records shall, at a minimum, contain the following: name, age, current address and telephone numbers, photograph, description of the duties and responsibilities of the person, a copy of any escort or escort service runner license held by the person and such other information reasonably required by the Town ~~Clerk's office~~Clerk.

B. It is the responsibility of the escort bureau licensee to notify the Town ~~Clerk's office~~Clerk within seventy-two (72) hours of the initial employment, discharge, termination, suspension or resignation of any employee, independent contractor, escort or escort service runner. Notice shall be in writing and shall include the information required to be kept pursuant to subsection A above, and any specific reason or cause for termination or suspension. A manager, principal or owner of the escort bureau must sign the notice.

C. It is the responsibility of any employee, independent contractor, escort or escort service runner to surrender their license to the Town ~~Clerk's office~~Clerk within seventy-two (72) hours of their discharge, termination, or resignation.

D. It is unlawful for any manager, principal or owner of an escort bureau to fail or refuse to provide the Town ~~Clerk's office~~Clerk with the information required to be kept by this section.

E. The escort bureau shall provide to each escort patron a written contract for services. The contract shall clearly state the name and address of the escort and patron, the type of services to be performed, the length of time such services shall be performed, the total charge for such services and any special terms or conditions relating to the services to be performed. The contract shall include a statement in clear and concise language that prostitution is illegal in the state of Colorado and that all parties to an act of prostitution may be punished by fine and imprisonment and that no act of prostitution shall be performed in relation to the services for which contracted. Each contract shall be numbered and utilized in numerical sequence by the escort bureau. The contract shall be signed by and a copy provided to the escort patron. The escort bureau shall retain copies of all contracts for at least one year from the date of execution of the contract, and one copy of each contract executed in any calendar month shall be transmitted by the escort bureau to the Town ~~Clerk's office~~Clerk no later than ten (10) days after the last day of such month. The Town ~~Clerk's office~~Clerk shall treat such contracts transmitted as open public records.

5.48.090 Conduct.

A. Conduct of Escorts and Escort Patrons. For purposes of this chapter, it is unlawful for any escort or escort patron for the duration of the contracted escort services:
   1. To touch, caress or fondle the breasts, anus or specified anatomical areas of any person, or to encourage, facilitate or aid another in touching, caressing, or fondling the breasts, anus or specified anatomical areas of any person.
   2. To engage in specified sexual activities.

B. Licensees.

1. Each person licensed pursuant to this chapter shall conduct the licensed premises in a decent, orderly and respectable manner and shall not permit disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the licensed premises is located.
2. Each person licensed pursuant to this chapter shall not violate, or permit to be violated, any local, state or federal law based on acts of dishonesty, fraud, deceit, violence, weapons, substance abuse or narcotics, sexual misconduct, or prostitution-related misconduct of any kind, whether or not the acts were committed in this state.

C. Unlawful. It is unlawful for any escort bureau, escort service runner or escort licensed pursuant to this chapter to engage in, authorize, solicit, request, command, or knowingly tolerate the unlawful acts as provided in this section.

D. It is unlawful to operate or maintain any escort bureau contrary to the provisions of this chapter and shall be deemed a public nuisance. The Town Clerk or designee may, in addition to all other remedies set forth in ~~this title~~this General Licensing Code, commence license suspension or revocation proceedings for the abatement, removal and enjoinment thereof, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such escort bureau and restrain and enjoin any person from operating, conducting or maintaining an escort bureau contrary to the provisions of this chapter.

Chapter 5.52 SPECIAL EVENTS

5.52.040 Permit process.

A. An application for a special event permit with estimated attendance under one thousand (1,000) people shall be submitted to the Town Clerk or designee for review at least thirty (30) days before the event.

B. An application for a special event permit with estimated attendance of one thousand (1,000) or more shall be submitted to the Town Clerk or designee for review at least one hundred twenty (120) days before the event and shall require approval by the ~~Board of Trustees~~Town Council.

C. An application for a special event permit shall be submitted to the Town ~~Clerk's office~~Clerk forty-five (45) days before the event. All permit applications shall be accompanied by the applicable fee(s). The Town ~~Clerk's office~~Clerk shall not accept a permit application unless accompanied by the required fee(s).

D. All permit applications shall be accompanied by the applicable fee(s). The Town Clerk or designee shall not accept a permit application unless accompanied by the required fee(s).

E. Incomplete applications shall not be accepted.

5.52.050 Approval criteria.

An application for a special event may be approved if it conforms to the following criteria, as applicable. Approval is discretionary, and the Town is under no obligation to issue an approval.

A. The application is in conformance with all applicable Town or other government regulations.

B. The applicant will obtain any required permits, licenses, or approvals.

C. The event or use will not cause significant impacts, disturbance or damage to surrounding properties, Town streets, or public property, and will not compromise the public's health, safety and welfare.

D. The site will provide sufficient parking, if applicable. Gravel surfaced parking may be approved for a special event.

E. Adequate services will be provided, if applicable.

F. Adequate provisions have been made for cleanup and, if applicable, restoration of public property in a timely fashion upon termination of the activity or event. The Town may require a cleanup deposit or fee if the event is expected to generate a significant amount of waste. The deposit or fee will be based upon the anticipated costs of cleanup.

G. Each holder of a permit under this chapter shall, during the duration of the event, maintain liability insurance pursuant to ~~this title~~this General Licensing Code.

H. Failure to comply with Town ordinances during the special event, failure to return Town property to pre-event conditions at the immediate conclusion of the special event, damage to Town property caused during the course of the special event, and/or failure to obtain a permit prior to any special event may result in the denial of any special event application submitted within one year of the special event in which any of the abovementioned ~~[~~occurred.~~]~~

NOTE: A special event permit is not a permit to violate any Town ordinance, rules, or regulation, such as noise, parking, or alcohol consumption. If a violation occurs, it may result in a citation being issued to the manager of the special event.

5.52.070 Revocation of permit.

If, upon review, the conditions or restrictions imposed by ~~this~~ the Monument Municipal Code or by the permit have not been complied with, the Town Clerk or designee may take any action deemed necessary to remedy the noncompliance, including, but not limited to, revocation of the permit or pursuing the noncompliance as a code violation. The Town reserves the right to revoke a permit at any time if there is a circumstance that substantially interferes with the event or requires Town staff and/or emergency responders or vehicles to respond.

Chapter 5.53 FARMER'S MARKETS

5.53.010 Permit required.

It is unlawful for any person to operate a farmer's market without a valid farmer's market permit issued by the Town ~~Clerk's office~~Clerk. In addition to the license requirements of ~~this title~~this General Licensing Code, farmer's market applicants shall provide any other pertinent information requested by the Town ~~Clerk's office~~Clerk for the purpose of administering the provisions of this chapter ~~title~~. The manager of the farmer's market must obtain the permit and assume responsibility of all vendors.

(Ord. No. 16-2016 , 9-6-2016)

5.53.040 Manager's responsibilities.

The Manager of a farmer's market shall:

A. ~~Managers shall obtain~~ Obtain a Farmer's Market Permit from the Town ~~Clerk's office~~Clerk. The farmer's market shall operate under one permit.

B. ~~Managers shall provide~~ Provide written permission from the landowner upon whose property the farmer's market will be held.

C. ~~Managers shall provide~~ Provide all required approvals by the El Paso County Department of Public Health and Safety for each food vendor.

D. ~~Managers shall report~~ Report sales tax receipts to the Town ~~Treasurer~~ Finance Department on a weekly basis.

E. Managers shall assure that all sanitary facilities are maintained so as to prevent any health or environmental issues.

F. ~~Managers shall provide~~ Provide contact information and health department license numbers, as applicable, for every vendor, as well as a photograph of each vendor's kiosk, cart, or other form of setup.

G. ~~Managers shall provide~~ Provide a site map showing placement of all vendors, parking areas, and loading/unloading areas.

H. ~~Managers shall ensure~~ Ensure that all vendors comply with all Town and County ordinances, and all relevant State Statutes.

I. ~~Each holder of a permit under this chapter shall, during~~ During the time of the permit, maintain liability insurance coverage acceptable to the Town Clerk.

5.53.070 Permit process.

An application for a farmer's market must be submitted to the Town ~~Clerk's office~~Clerk for review. All permit applications shall be accompanied by the applicable fee. All permit applications shall be accompanied by the appropriate documents applicable to this chapter. The Town ~~Clerk's office~~Clerk shall not accept a permit application unless accompanied by the required fee and applicable documents.

The Town ~~Clerk's office~~Clerk may require additional information during the review period, and may send referrals to Town staff and/or outside referral agencies for review. The Town ~~Clerk's office~~Clerk may approve, approve with conditions, or deny any application based upon the approval criteria herein.

5.53.100 Revocation of permit.

If, upon review, the conditions or restrictions imposed by ~~this~~ the Monument Municipal Code, county ordinance or state statute or by the permit have not been complied with, the Town Clerk may take any action deemed necessary to remedy the noncompliance, including but not limited to, revocation of the permit or pursuing the noncompliance as a Code violation. The Town reserves the right to revoke a permit at any time if there is an emergency that substantially interferes with the market.

(Ord. No. 16-2016 , 9-6-2016)

Chapter 5.56 SOLICITORS

5.56.010 Definitions.

The following terms, as used in this chapter, shall have the meanings designated below, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

"Foodstuffs" means fruits, vegetables, meats, eggs, fowl or any article that may be used for food purposes, except milk, cream and buttermilk.

"Solicitor" means any person, whether a resident of the Town or not, who, on a temporary basis goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books or personal property of any legal nature whatsoever, including service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject or such order, or whether or not he or she is collecting advance payments on such orders. Such definition includes any person who hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, motel room, apartment, shop or other place within the Town on a temporary basis, for the primary purpose of exhibiting samples and taking orders for future delivery. A person is not a solicitor unless he or she knocks on doors or otherwise attempts to contact or speak to the occupants of a private residence. The term solicitor shall not include persons who contact occupants of a private residence as representatives of a religion, a non-profit business ~~entity~~, a political campaign or a local school activity concerning grades one through twelve (12).

"Soliciting" means the selling, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books or personal property of any nature whatsoever, including service to be performed in the future by contacting occupants of private residences in door-to-door contact other than delivery from regularly established business houses.

(Ord. No. 16-2016 , 9-6-2016)

5.56.020 License required.

It is unlawful for any solicitor to engage in business through soliciting within the Town without a valid business license and photographic solicitors badge for each applicant wishing to solicit, issued by the Town ~~Clerk's office~~Clerk. In addition to the license requirements of ~~this title~~this General Licensing Code, solicitor's licensee's shall provide any other pertinent information requested by the Town ~~Clerk's office~~Clerk for the purpose of administering the provisions of this chapter ~~title~~. The manager of the solicitor's license shall assume responsibility of all solicitors.

5.56.040 License application.

It is unlawful for any person to solicit within the Town without first having been issued a business license as well as a photographic solicitor's badge for each individual who engages in door to door solicitation from the Town ~~Clerk's office~~Clerk. In addition to the license requirements of ~~this title~~this General Licensing Code, solicitors shall provide any other pertinent information requested by the Town ~~Clerk's office~~Clerk for the purpose of administering the provisions of this chapter ~~title~~, to include, but not limited to the following:

A. Name of applicant. If a corporation, limited liability company, partnership or other entity the name of the entity as well as the name of the individual requesting the license and the individual's position in the entity.
B. Complete permanent home and local address of the applicant, and in the case of transient merchants, the local address from which the proposed sale will be made.
C. A brief description of the nature of the business and the goods or services to be sold.
D. If employed, the name and address of the employer, together with documents establishing the relationship between the employer and the employee.
E. The length of time for which the right to do business is desired.
F. The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time the application is filed, and the proposed method of delivery.
G. A valid driver's license or state-issued identification card for each individual solicitor which shall be photocopied by the Town ~~Clerk's office~~Clerk and made a part of the license application.
H. An affidavit for each individual solicitor as to whether or not the applicant has been convicted of any felony, misdemeanor or violation of any municipal ordinance excluding minor traffic violations, the nature of the offense and the penalty assessed accompanied by an application for a background investigation and the required background fee.
I. If a vehicle is to be used, a description of each such vehicle including license plate numbers.

5.56.050 Fees.

All license applications shall be accompanied by the applicable fee(s). The Town ~~Clerk's office~~Clerk shall not accept a license application unless accompanied by the required fee(s).

All fees shall be established by resolution by the ~~Board of Trustees~~Town Council.

5.56.060 Investigation and issuance of license.

Upon the receipt of an application, the Town ~~Clerk's office~~Clerk shall, institute such investigation as deemed necessary by the Town ~~Clerk's office~~Clerk based upon the information contained in the application and necessary for the protection of the public good. Based upon the results of the investigation the Town Clerk shall recommend approval or disapproval of the license within forty-eight (48) hours of receipt, excluding weekends and holidays. The Town Clerk shall notify the applicant and, if the license application is approved, the Town Clerk shall, deliver the license to the applicant upon the applicant's appearance at Town Hall. Each solicitor must secure a photographic solicitors badge in addition to any license issued to an entity and payment for each license and photographic solicitors badge must be made prior to the background investigation. No refunds are given if the license(s) is not approved. No license shall be used at any time by any person other than the one to whom it is issued. The Town Clerk shall keep a record of all licenses issued.

5.56.100 Enforcement.

Police officers, the Town Clerk or designee shall have the primary responsibility for enforcement of these provisions. Any violations noted by the Town shall be reported to the Town ~~Clerk's office~~Clerk who shall keep a record of reports of violations as well as of any penalty which may be assessed therefor.

5.56.110 Denial/Revocation of license.

A. In addition to other provisions of ~~this title~~this General Licensing Code, solicitor's licenses and individual solicitor applications may be denied or revoked for the following listed causes or for other good and substantial cause which is determined by the police department:
   1. Any misrepresentation, fraud, deception, breach of warranty or breach of contract in the Town or elsewhere.
   2. Failure to comply with this chapter or violation of any ordinance applicable to the applicant's permitted activities.
   3. Failure to obtain a sales tax license as required by the Town or failure of the applicant, his or her supervisor or his or her employer to remit any sales tax due to the Town.
   4. Any felony or misdemeanor convictions for crimes against the person or property of another or institutionalization for mental illness which caused acts of violence against the person or property of another; provided, however, that such felony or misdemeanor convictions or institutionalization occurred within the five years preceding the date of the application.
   5. Conviction of any crime committed while engaged in solicitation in the Town.
   6. Conducting business in an unlawful manner or in a manner constituting a breach of the peace, a public nuisance or creating a danger to the health, safety or welfare of the public.
      a. For purposes of this section:
         i. Crimes or acts of violence against the person of another shall include homicide, attempted homicide, rape, attempted rape, sexual assault, assault, battery and other similar felonies involving moral turpitude by whatever name.
         ii. Crimes or acts against the property of another shall include theft, burglary, breaking and entering, larceny and other similar felonies involving moral turpitude by whatever name.

B. If the Town Clerk finds that any of the grounds for denial set forth in this chapter exist, that an applicant has made a false statement in his or her application, that an employer has failed to supervise solicitation conducted under the license so as to reasonably ensure that such solicitation is in compliance with the terms of the license and with the provisions of this chapter, or that the license holder has authorized, condoned or knowingly tolerated any unlawful solicitation or any solicitation conducted in such a manner as to constitute a menace to the health, safety or general welfare of the public, the Town Clerk shall revoke and shall not renew the license. The permittee may appeal the Town Clerk's decision to the Town Manager.

Chapter 5.60 AUCTIONS

5.60.010 License required for auction.

It is unlawful for any person to conduct any auction within the Town without first having been issued a business license from the Town ~~Clerk's office~~Clerk. A separate business license shall be required for each auction. In addition to the license requirements of ~~this title~~this General Licensing Code, auction applicants shall provide any other pertinent information requested by the Town ~~Clerk's office~~Clerk for the purpose of administering the provisions of this chapter. ~~title and shall comply with the following:~~

5.60.040 Accumulation at site.

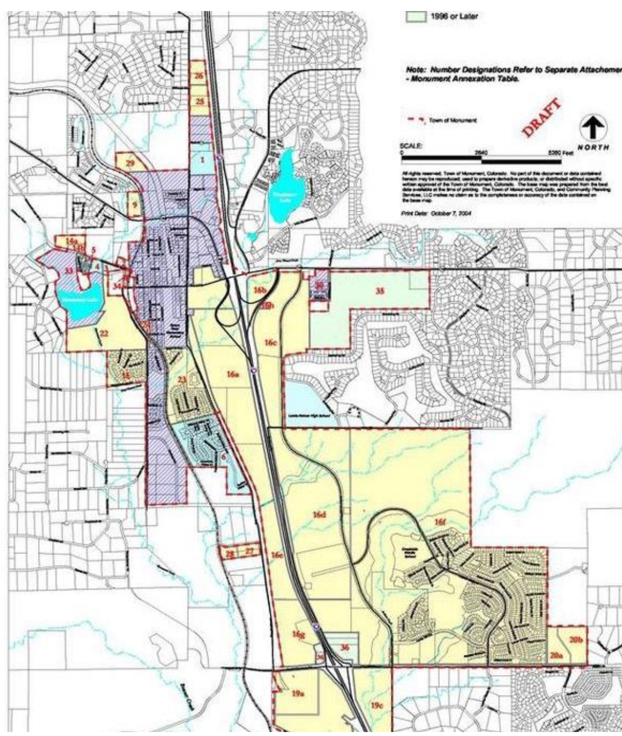
Merchandise or goods of any type which are to be auctioned shall not be accumulated at the auction site more than seven days prior to the auction and must be stored in compliance with the Land Development Code ~~Use and Zoning Codes~~. All merchandise and goods of any type shall be removed from the auction site within seventy-two (72) hours of completion of the auction.

Monument Tax Code
October 7, 2024

1

AGENDA

- Present Tax Code for Town Council's Review
- Discuss background of code creation
- Highlight areas for Town Council's input and decisions to be made
- Questions



2

Tax & License Code Summary Changes

REPEAL 3.12 – CONSTRUCTION USE TAX

ADOPT 3.08-3.13 – SALES AND USE TAX SECTIONS (INCLUDING CONSTRUCTION USE TAX)

AMEND 5.12 – TO TIE IN LICENSE INFORMATION AND CORRELATE TO NEW TAX CODE 3.08-3.14

3

Code Creation

- REVIEWED OTHER HOME-RULE SELF-COLLECTED CODES FOR UNIFORMITY OF PROVISIONS
- REVIEW CURRENT TAXATION/EXEMPTIONS IMPOSED BY THE STATE COLLECTION PROCESS
- ENSURE NO TABOR VIOLATIONS
- ADDED CML STANDARDIZED DEFINITIONS AND APPLICABLE STATE OF COLORADO DEFINITIONS
- REVIEW ADDITIONAL CML MODEL ORDINANCE FOR MARKETPLACE FACILITATORS AND ECONOMIC NEXUS
- ENSURE CORRECT REFERENCE TO SIMPLIFIED SALES TAX HEARING PROCESS

4

AREAS FOR DECISIONS TO BE MADE

- Taxation of Candy
- Taxation of Essential Hygiene Products
- Vendor's Fee Cap
- Manual Paper Filing Fee
- Interest Rate Charged
- Fraud Penalty
- Special Penalty for repeated enforcement
- Fee for Audits to be billed to taxpayers

5

Taxation or Exemption items for discussion

- *Candy* means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour, products that require refrigeration or marijuana infused products.
  - Current Status = State taxes, Monument taxes
- *Essential Hygiene Products* means incontinence products, diapers, and period products consisting of absorbent cloth or disposable products worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements and consumer products used to manage menstruation.
  - Current Status = State exempts, Monument taxes

6

Procedural items for discussion

- Vendor’s Fee Cap – 3.11.010 (9)
  - Current Status = 3.33% of a timely tax filing, no cap at Town level
  - Proposed Status = same rate and a $100 cap per return*
- Manual Paper Filing Fee – 3.11.010 (10)
  - Current Status = no fee
  - Proposed Status = $25.00 per manual paper filing
- Interest Rate Charged – 3.12.020 (4)
  - Current Status = related to the Colorado State Banking Commission Rate
  - Proposed Status = 1% per month*
- Fraud Penalty – 3.12.020 (5)
  - Current status = 100% with the state collection
  - Proposed status = 50% or 100% to be decided
- Special Penalty for repeated enforcement – 3.12.020 (6)
  - Current status = fraud penalty
  - Proposed status = greater of 25% of the tax or $250.00
- Fee for Audits to be billed to taxpayers - 3.12.030(3)
  - Potential fee available to bill taxpayers for the time and costs it may take to complete an audit.

7

Questions

8

Thank you

- Sophia Hassman, M.S., C.F.E.
- Principal Consultant and Owner
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COSALT
CONSULTING

9

TOWN OF MONUMENT

ORDINANCE NO. 22-2024

AN ORDINANCE REPEALING AND READOPTING CHAPTER 3.12 AND SECTION 5.12.010, AND ADDING CHAPTERS 3.08, 3.09, 3.10, 3.11 AND 3.13, AND SECTION 5.12.000, OF THE MONUMENT MUNICIPAL CODE REGARDING REVENUE AND FINANCE, AND BUSINESS LICENSES AND REGULATIONS

WHEREAS, the Town of Monument ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town's Home Rule Charter approved by the electors on November 8, 2022 ("Charter"); and

WHEREAS, the Members of the Town Council ("Council") have been duly elected and qualified; and

WHEREAS, the Council has determined that it is in the best interest of the Town and its taxpayers to implement a system of self-collection, administration and enforcement for sales and use taxes and the licensing of businesses subject to the same; and

WHEREAS, pursuant to its home rule powers and authority, the Council desires to adopt comprehensive provisions governing the imposition of sales and use tax of the Town and thereby transfer responsibility for the collection, administration and enforcement of the Town's sales tax from the Colorado Department of Revenue to the Town; and

WHEREAS, the Council has determined that in the event the Town's electors approve Ballot Issue 2A, it is in the best interest of the Town to administer, collect and enforce the lodging tax proposed by Ordinance No. 16-2024 by procedures similar to the system for sales and use taxes; and

WHEREAS, the Council hereby determines that the Town's interest and the public interest and necessity require that the Town repeal and readopt, and adopt portions of Title 3 regarding Revenue and Finance and Title 5 regarding Business Licenses and Regulations; and

WHEREAS, this Ordinance was introduced by title, considered at public hearing, and voted upon at the regular meeting of the Town Council on October 7, 2024.

THE TOWN COUNCIL OF THE TOWN OF MONUMENT, COLORADO, ORDAINS:

Section 1. Incorporation. The recitals set forth above are incorporated and ordained as if set forth in this section in full.

Section 2. Repeal and Readopt Chapter 3.12 and Section 5.12.010. Chapter 3.12 and Section 5.12.010 of the Monument Municipal Code are repealed and readopted as set forth on Exhibit A, attached hereto and incorporated herein.

Section 3. Adopt Chapters 3.08. 3.09, 3.10, 3.11, and 3.13 and Section 5.12.000. Chapters 3.08. 3.09, 3.10, 3.11, and 3.13, and Section 5.12.000 of the Monument Municipal Code are adopted as set forth on Exhibit A, attached hereto and incorporated herein.

Section 4. Publication. Pursuant to Subsection 6.5, 3. of the Town of Monument Home Rule Charter and Subsection 2.04.030, G. of the Monument Municipal Code, upon approval this Ordinance shall be published on the Town's official website in full for not less than ten (10) days.

Section 5. Authentication and Filing. Upon passage this Ordinance shall be authenticated by the Mayor and Town Clerk and maintained by the Town Clerk in such form as is sufficient to assure reasonable access by the public. Failure to authenticate any ordinance shall not invalidate it or suspend its operation.

Section 6. Effective Date. This Ordinance shall become effective and be in full force and effect ten (10) days after final publication.

Section 7. Severability. If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable.

INTRODUCED, PASSED, and ADOPTED/REJECTED, by the Town Council of the Town of Monument, Colorado this 7th day of October, 2024 by a vote of __ for and _______ against.

TOWN OF MONUMENT, COLORADO

By: ________________________________

Mitch LaKind, Mayor

Attest:

____

Sylvia Simpson, Deputy Town Clerk

EXHIBIT A

Chapter 3.08 – Taxation, General Provisions

Sec. 3.08.010. - Title.

A. The provisions of Chapters 3.08 through Chapters 3.14 shall be known and cited as the "Monument Tax Code."

Sec. 3.08.020. - Purpose and Interpretation.

A. The provisions of the Monument Tax Code shall apply to the imposition, administration, enforcement and collection of sales, use and other excise taxes by the Town.

B. The provisions of the Monument Tax Code shall be construed to effect uniformity of imposition, administration, enforcement and collection of taxes and to establish uniform procedures, but shall not be construed to extend or increase the application, rate or amount of any tax levied or imposed herein; provided, however, that the imposition of a penalty, interest or both penalty and interest shall be lawful and shall not be construed as an extension or increase of the application, rate or amount of tax.

C. The purpose of this Chapter is to provide the power necessary to exercise effectively the right to raise revenue that is essential to home rule and self-government. Regardless of any similarities or any reference to State statute, the provisions contained herein are matters of local concern.

Sec. 3.08.030. - Definitions.

For the purpose of the Monument Tax Code, the definitions of words contained in this Chapter, whether capitalized or not in usage, shall be defined as follows:

"Auction" means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

"Business" means all activities engaged in or caused to be engaged in with the object of gain, benefit or advantage, direct or indirect.

"Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour, products that require refrigeration or marijuana infused products.

"Carrier Access Services" means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

“Charitable Organization” means any entity which: (1) has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, and (2) is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.

“Code” means the Monument Tax Code.

“Coins” means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future or heretofore designated as a medium of exchange under the laws of this State, the United States or any foreign nation.

“Collection costs” shall include, but is not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, prosecution and attorney fees.

“Collection proceedings” shall include the mailing of a notice of audit, an audit and all remedies exercised by the Director pursuant to this Code to collect any unpaid taxes, penalties and interest.

“Construction equipment” means equipment used in the erection, installation, demolition, alteration, repair, remodeling, or landscaping of a building or structure upon real estate, or otherwise make improvements to any real property, building, structure or infrastructure.

“Construction materials” mean tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, without limitation, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or devoted part of a completed structure or project, are not construction materials.

“Construction project” means the erection, installation, alteration, repair, or remodeling of a building or structure upon real estate and any other activity for which a building permit is required under this Code or any other ordinance of the Town.

“Consumer” means any person in the Town who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the Town.

“Contractor” means any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. For purposes of this definition, Contractor also includes subcontractor.

“Digital Product” means an electronic product, including but not limited to:

(1) digital images, which means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as photographs, logos, cartoons, or drawings;

(2) digital audio-visual works, which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(3) digital audio works, which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and (4) digital books, which means works that are generally recognized in the ordinary and usual sense as books. For purposes of the definition of “digital audio works”, ringtones means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

“Director” means the Town's Finance Director or such person's designee.

“Distribution” means the act of distributing any article of tangible personal property for use or consumption, which may include, but not be limited to, the distribution of advertising gifts, shoppers’ guides, catalogs, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the sales of other commodities or services.

“Dwelling unit” shall mean one or more rooms constituting a separate, independent housekeeping unit establishment for owner occupancy or for rental or lease, physically separated from any other rooms or dwelling units which may be in the same structure.

"Economic Nexus" means the connection between the Town and a person not having a physical nexus in the State of Colorado, which connection is established when the person makes retail sales into the Town, and:

(1) In the previous calendar year, the person has made retail sales into the State of Colorado exceeding the amount specified in Section 39-26-102(3)(c), C.R.S., as amended; or

(2) In the current calendar year, ninety (90) days have passed following the month in which the person has made retail sales into the State of Colorado exceeding the amount specified in Section 39-26-102(3)(c), C.R.S., as amended.

"Engaged in Business in the Town" means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property, products, or services for storage, use or consumption, within the Town. Engaged in Business in the Town includes, but is not limited to, any one (1) of the following activities by a person:

(1) directly, indirectly, or by a subsidiary maintaining a building, store, office, salesroom, warehouse, or other place of business within the Taxing Jurisdiction;

(2) sending one (1) or more employees, agents or commissioned sales persons into the Taxing Jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;

(3) maintaining one or more employees, agents or commissioned sales persons on duty at a location within the Taxing Jurisdiction;

(4) owning, leasing, renting or otherwise exercising control over real or personal property within the Taxing Jurisdiction;

(5) making more than one (1) delivery into the Taxing Jurisdiction within a twelve-month period; or

(6) making retail sales sufficient to meet the definitional requirements of economic nexus as set forth in Section 3.08.30 above.

"Essential Hygiene Products" means incontinence products, diapers, and period products consisting of absorbent cloth or disposable products worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements and consumer products used to manage menstruation.

“Farm Equipment” means any farm tractor, as defined in Section 42-1-102(33), C.R.S., any implement of husbandry, as defined in Section 42-1-102(44), C.R.S., and irrigation equipment having a per unit purchase price of at least one thousand dollars ($1,000.00). Farm Equipment also includes, regardless of purchase price, attachments and bailing wire, binders, twine, and surface wrap used primarily and directly in any farm operation. Farm Equipment also includes, regardless of purchase price, parts that are used in the repair or maintenance of the Farm Equipment described in this Paragraph, all shipping pallets, crates, or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. Farm Equipment also includes, regardless of purchase price, dairy equipment. Except for shipping pallets, crates or aids used in the transfer or shipping of agricultural products, *Farm Equipment* does not include:

(1) vehicles subject to the registration requirements of Section 42-3-103, C.R.S., regardless of the purpose for which such vehicles are used;

(2) machinery, equipment, materials, and supplies used in a manner that is incidental to a farm operation;

(3) maintenance and janitorial equipment and supplies; and

(4) tangible personal property used in any activity other than farming, such as office equipment and supplies and equipment and supplies used in the sale or distribution of farm products, research, or transportation.

“Farm Operation” means the production of any of the following products for profit, including, but not limited to, a business that hires out to produce or harvest such products such as:

(1) agricultural, viticultural, fruit, and vegetable products;

(2) livestock;

(3) milk;

(4) honey; and

(5) poultry and eggs.

“Food For Home Consumption” means food for domestic home consumption as defined in 7 U.S.C. sec. 2012 (k) (2014), as amended, for purposes of the supplemental nutrition assistance program, or any successor program, as defined in 7 U.S.C. sec. 2012 (t), as amended; except that “food” does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow foods; prepared salads and salad bars; packaged and unpackaged cold sandwiches; deli trays; and hot or cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor.

"Internet Access Services" means services that provide or enable computer access by multiple users to the Internet but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of Internet Access Services.

"License" means a Town business license.

"Lodging" shall mean the furnishing of a room or other accommodation within the Town by any person to another person who for consideration uses, possesses or has the right to use or possess that room or accommodation in a hotel, motel, inn, bed and breakfast, residence, apartment, hotel, lodging house, motor hotel, guest house, guest ranch, trailer coach, dwelling unit, or any similar establishment or accommodation, including the furnishing of space at a campground, mobile home park, auto camp, trailer court, trailer park, recreational vehicle park, truck stop or truck parking area under any lease, rental, concession, permit, right of access, license to use or other agreement. Lodging customer shall mean any person who, through a lodging transaction, acquires lodging from a lodging provider.

"Lodging price" shall mean the gross price paid in money, credit, property or other consideration valued in money, exclusive of other taxes paid and charges separately stated including, without limitation, pet fees, cleaning fees, security deposits and in-room charges for food, beverages, and telephone and video services, by the lodging customer for lodging.

"Lodging provider" shall mean any person retailer or vendor furnishing lodging.

"Lodging tax" shall mean an excise tax shall be imposed upon the purchase price paid for lodging.

"Lodging transaction" shall mean the furnishing of lodging to any person who, for consideration, uses, possesses or has the right to use or possess that lodging.

"Machinery" means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.

“Manufactured Home” means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

“Manufacturing” means the operation or performance of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired whether for sale or for use by a manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.

“Marketplace” means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property, taxable products, or taxable services are offered for sale.

”Marketplace Facilitator” means a person who:

(1) Contracts with a Marketplace Seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the Marketplace Seller's tangible personal property, products, or services through the person's Marketplace;

(2) Engages directly or indirectly, through one (1) or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser and the Marketplace Seller; and

(3) Either directly or indirectly, through agreements or arrangements with third parties, collects the payment from the purchaser and transmits the payment to the Marketplace Seller.

“Marketplace Facilitator” does not include a person that exclusively provides internet advertising services or lists products for sale, and that does not otherwise meet this definition.

“Marketplace Seller” means a person, regardless of whether or not the person is engaged in business in the Town, which has an agreement with a Marketplace Facilitator and offers for sale tangible personal property, products, or services through a marketplace owned, operated, or controlled by a Marketplace Facilitator.

"Vehicle" shall mean any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle or a motorcycle as defined in Section 42-1-102(55), C.R.S

"Multichannel Seller" means a retailer that offers for sale tangible personal property, commodities, or services through a marketplace owned, operated, or controlled by a Marketplace Facilitator, and through other means.

"Occasional sales" mean retail sales of tangible personal property, including concessions, for fund-raising purposes, if the funds raised by the charitable organization through these sales are retained by the organization to be used in the course of the organization's charitable service, and:

(1) The sale of tangible personal property by the charitable organization takes place for no more than twelve (12) days, whether consecutive or not, during any one (1) calendar year; or

(2) The funds raised by the charitable organization through these sales do not exceed twenty-five thousand dollars ($25,000.00) of gross profit during any one (1) calendar year.

"Person" means any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

"Prescription Drugs for Humans" means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

"Price" or "Purchase Price" (terms used interchangeably) means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this Chapter, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

(1) Such exchanged property is to be sold thereafter in the usual course of the retailer's business, or

(2) Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

"Price" or "Purchase Price" includes:

(1) The amount of money received or due in cash and credit.

(2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.

(3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.

(4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. The amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.

(5) Installation, applying, remodeling or repairing the property included in the purchase price and not separately stated.

(6) Transportation and other charges affect delivery of tangible personal property to the purchaser.

(7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.

(8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

"Price" or "Purchase Price" shall not include:

(1) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.

(2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to exchanges in Colorado. Out-of-state trade-ins are an allowable adjustment to the purchase price.

(3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

"Prosthetic Devices for Humans" means any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic Devices for Humans include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

"Purchase" or "Sale" (terms used interchangeably) means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, or sold. These terms include capital leases, installment and credit sales, and property and services acquired by:

(1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;

(2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services;

(3) Utilization of coin operated devices, except coin-operated telephones, which do not vend articles of tangible personal property;

(4) Performance of taxable services; or

(5) Barter or exchange for other tangible personal property, other taxable products, or services.

The terms "Purchase" or "Sale" do not include:

(1) A division of partnership assets among the partners according to their interests in the partnership;

(2) The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(3) The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(4) A transfer of a partnership or limited liability company interest;

(5) The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

(7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least eighty percent (80%) by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;

(8) The transfer of assets from a subsidiary company or companies which are owned at least eighty percent (80%) by the parent company to a parent company or to another subsidiary which is owned at least eighty percent (80%) by the parent company, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

(9) The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this Chapter was paid by the transferor company at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company. To such an extent any transfer referred to in this paragraph shall constitute a sale. For the purposes of this paragraph, a closely held subsidiary corporation is one in which the parent company owns stock possessing or membership interest at least eighty percent (80%) of the total combined voting power

of all classes of stock entitled to vote and owns at least eighty percent (80%) of the total number of shares of all other classes of stock.

“Private Communications Services” means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate inter-communications system for the subscriber's stations.

“Resident” means a person who resides or maintains one (1) or more places of business within the Town, regardless of whether that person also resides or maintains a place of business outside of the Town. Any person who does not meet the definition of Resident shall be deemed a non-resident.

“Responsible person” means (a) the contractor responsible for the construction of a permitted project, or (b) the contractor responsible for construction for a federal, state or local government that is not required to get a permit from the Town, or (c) if no contractor is used for a permitted project, the property owner receiving a permit from the Town to build or make improvements to the property.

“Retailer” or “Vendor” means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. The terms "retailer" shall include, but is not limited to, any:

(1) Auctioneer;

(2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;

(3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;

(4) Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property;

(5) Marketplace Facilitator or Marketplace Seller engaged in business in the Town.

“Retailer-Contractor” means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

“Retail Sales” means all sales except wholesale sales.

“Return” means any form prescribed by the Town administration for computing and reporting a total tax liability.

“School” means a public school or Charter school as defined in Section 22-1-101, C.R.S, or a private school, providing education for students in kindergarten through 12th grade or any portion thereof.

“Special Sales Event” means any sales event which includes more than three (3) Vendors taking place at a single location for a limited period of time not to exceed seven (7) consecutive days.

“Special Fuel” means, notwithstanding any statutory definition otherwise, kerosene oil, kerosene distillate, diesel fuel, all liquefied petroleum gases, and all combustible gases and liquids for use in the generation of power for propulsion of motor vehicles upon the public highways. The term does not include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad locomotives.

“Storage” means any keeping or retention of, or exercise dominion or control over, or possession of, for any length of time, tangible personal property not while in transit but on a stand still basis for future use when leased, rented or purchased at retail from sources either within or without the Town from any person or vendor.

“Tangible Personal Property” means personal property that can be one (1) or more of the following: seen, weighed, measured, felt, touched, stored, transported, exchanged, or that is in any other manner perceptible to the senses.

“Tax” means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

“Tax Deficiency” means any amount of tax, penalty, interest, or other fee that is not reported and/or not paid on or before the date that any return or payment of the tax is required under the terms of this Chapter.

“Taxable Sales” means gross sales less any exemptions and deductions specified in this Chapter.

“Taxable Services” means services subject to tax pursuant to this Chapter.

“Taxing Jurisdiction” means the Town.

“Taxpayer” means any person obligated to collect and/or pay tax under the terms of this Chapter.

"Telecommunications Service" means the service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of such media, including any form of mobile two-way communication.

"Town Manager" shall mean the Town Manager of the Town.

"Use" means the exercise, for any length of time by any person within the Town of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the Town from any person or vendor or used in the performance of a contract in the Town whether such tangible personal property is owned or not owned by the taxpayer. Use also includes the withdrawal of items from inventory for consumption.

"Use Tax" means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the Town.

"Vendor fee" means a credit, as designated by the Director, to be allowed against the tax due on timely filed sales tax returns. The amount of the credit, and any limitation per return, will be stated on the sales tax return as approved by the Director.

"Wholesaler" means any person doing an organized wholesale or jobbing business and selling to Retailers, jobbers, dealers, or other Wholesalers, for the purpose of resale, and not for storage, use, consumption, or distribution.

"Wholesale Sales" means a sale by wholesalers to retailers, jobbers, dealers, or other wholesalers for resale and does not include a sale by Wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be Retail Sales and shall be subject to the provisions of this Chapter.

Sec. 3.08.040. - Duties and powers of Finance Director and Town Manager.

The administration of the licensing and all other provisions of the Code and of the Town tax is hereby vested in and shall be exercised by the Finance Director, who shall prescribe forms and formulate and promulgate appropriate rules and regulations to effectuate the purpose of this Code, in conformity with this Code and subject to other provisions of law relating thereto, for the making of returns, for the ascertainment, assessment and collection of the taxes imposed and for the proper administration and enforcement thereof, and to provide uniform methods of adding the tax, or the average equivalent thereof, to the purchase price. The Finance

Director shall have power and authority to add, enact, promulgate, amend and rescind rules and regulations to this Article that are not inconsistent with the provisions of this Code. Regulations adopted, amended or rescinded by the Finance Director shall be effective in the manner and at the time prescribed by the Finance Director, subject to the provisions of the Code. The performance of all responsibilities by the Finance Director shall be subject to the supervision and direction of the Town Manager. The Town Manager is authorized to delegate any duty or power to the Finance Director, Town Finance Staff or other subordinate unless otherwise provided herein.

Sec. 3.08.050. Town's records and confidentiality.

A. Town's preservation of records. All reports and returns of taxes received by the Department of Finance covered by this Code shall be preserved until the Town Clerk orders them destroyed in conformance with the Town's records retention schedule.

B. Confidential nature of returns. Except in accordance with judicial order, consent of the taxpayer or as otherwise provided by law, no Town employee, official, agent, contractor, or delegate shall divulge or make known in any way financial information disclosed in any document, report or return filed in connection with any of the taxes covered by this Code. The officials charged with the custody of such documents, reports and returns shall not be required to produce them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Director in an action or proceeding under the provisions of any such taxing or open record statutes when the report of facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit into evidence, so much of said reports, or of the facts shown thereby, as are pertinent to the action or proceeding, and no more.

C. Taxpayer request for records. Nothing contained in this Section shall be construed to prohibit the delivery to a person or his or her duly authorized representative of a copy of any return, report, or other record the Town may have filed in connection with his or her tax.

D. Publication of statistics. Nothing in this Section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof.

E. Records available to the Department of Revenue. Notwithstanding the provisions of this Section, the Director in his or her discretion may furnish to the Colorado Department of Revenue Executive Director and his or her authorized personnel, any financial information contained in tax returns and related schedules and documents filed pursuant to this Code, or in the report of an audit or investigation made with respect thereto provided; provided that such financial information is to be used only for tax purposes.

Sec. 3.08.060. Licensing.

A. Any person or entity that is a Town engaged business, as defined in Section 5.12.000 is subject to tax pursuant to this chapter shall obtain and maintain a current business license.

B. Retailers holding a state standard retail license that ensures payment of sales and use tax to the Town and who qualify for a general business license free of charge as allowed under certain conditions of Section 39-26-802.9, C.R.S.; do not need to obtain a sales and use tax license directly with the Town. They will be provided a Town specific license number for record keeping and tracking of the sales and use taxes paid from either the Town's electronic remittance system or the Colorado Sales and Tax System.

C. Any person engaged in mobile food vending, seasonal sales and farmer's markets, or special events is required to be licensed.

D. License Form and Requirements. The license requirements are defined in Chapter 5 of the Code.

Sec. 3.08.070. - Use of revenues.

A. Sales tax: All revenues derived from the sales tax shall be used for any purpose authorized by law and the Town Council.

B. Use tax on building and construction materials: The revenues derived from the use tax on the use and consumption of construction materials shall be placed into a specially designated Town fund to be used exclusively for the express purpose of street and road maintenance, construction and capital improvement including the acquisition of rights-of-way within the Town limits.

C. Use tax on automotive vehicles: All revenues derived from the use tax on the storage, use or consumption of automotive vehicles shall be used any purpose authorized by law and the Town Council.

Sec. 3.08.080. – Effective date.

This Chapter shall become effective on January 1, 2025, and shall be subject to enforcement on and after that date.

Chapter 3.09 – Sales Tax

Sec. 3.09.010. Imposition of sales tax.

Sales Tax Rate. There is imposed a sales tax of three and fifty hundredths' percent (3.50%) on the sale of tangible personal property, products, and taxable services within boundaries of the Town, as provided herein at Section 3.09.050 of this Code.

Sec. 3.09.020. Sales tax as a separate and distinct item.

Except as provided in Section 3.09.030, retailers shall add the sales tax, or the average equivalent thereof, to the purchase price or charge of the item or service, and provide the customer with a receipt that shows the sales tax charged as a separate and distinct charge; and, when added, such sales tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts.

Sec. 3.09.030. Sales tax included in the selling price.

Only retailers selling malt, vinous or spirituous liquors by the drink, vending machine sales and special event vendor sales may include the sales tax in the sales price or charge. No retailer shall advertise or hold out to the public in any manner, directly or indirectly, that sales tax is not included as a part of the sales price to the consumer. No retailer shall gain any benefit from the collection or payment of the sales tax, nor shall the use of rates set forth in Sections 3.09.010 and 3.09.020 of this Chapter release such retailer from liability for payment of the full amount of the sales tax levied by this Chapter.

Sec. 3.09.040. Sales tax on credit sales.

Whenever tangible personal property is sold, including that sold in conjunction under a conditional sales contract whereby the seller retains title as security for all or part of the purchase price, the total sales tax based on the total purchase price, including finance and insurance charges which are not separately stated at the time of sale, shall become immediately due and payable. No refund or credit shall be allowed to either party to a transaction in case of repossession by the vendor of collateral securing the purchase price or any part of the purchase price.

Sec. 3.09.050. Sales tax; taxable property and services.

There is hereby levied and there shall be collected and paid a sales tax in the amount stated in Section 3.09.010 of this Chapter as follows:

A. On the purchase price paid or charged upon all sales of tangible personal property at retail.

B. Upon the amount paid for food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops, grocery delicatessens and other like places of business at which prepared food or drink is sold, including sales from pushcarts, motor vehicles and other mobile facilities. Cover charges, by whatever name known, required to be paid in order to obtain food or drink so furnished, and mandatory service charges, whether described as tips, gratuities or otherwise, shall be included as part of the amount paid for such food or drink. However, meals provided to employees of the places mentioned in this paragraph at no charge or at a reduced charge and which are considered as part of their salary, wages or income shall be exempt from taxation under the provisions of this Section.

C. Food that does not qualify for domestic home consumption including: carbonated water marketed in containers, chewing gum, seeds and plants to grow foods, prepared salads and salad bars, packaged and unpackaged cold sandwiches, deli trays and hot or cold beverages served is unsealed containers or cups that are vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor and excluding those sales of prepared food and drink.

D. Upon the sale of Candy

E. Upon the sales of Computer Software that meets the criteria under 39-26-102(15)(d).

F. Upon the sales of Digital Products

G. Upon the sales of electricity, coal, wood, gas, fuel oil, or coke specified under 39-26-715 (1)(a)(II) C.R.S.

H. Upon the sales of Lodging.

I. Upon the sales of Motor Vehicles.

J. Upon the sales of machinery or machine tools defined under 39-26-709 C.R.S.

K. Upon the sale of steam or other heating services furnished and sold for domestic or commercial use.

L. Upon the sale of Telecommunications Services: except Carrier Access Services, interstate or international WATS/800 service and interstate or international private communications service, for all international, interstate and intrastate telecommunications service originating from or received on telecommunications equipment in the Town if the charge for the service is billed to an apparatus, telephone, or account in the Town, without regard to where the bill for such services is actually received.

M. Upon all Marketplace Sales as defined in 3.09.070

Sec. 3.09.060. Sales tax; exempt property and services.

Sales of the following classes of tangible personal property are exempt from taxation:

A. Sales of tangible personal property shall be exempted if both the following conditions exist:

1. The sales are to those who are residents of the state but not the Town or such sales are conducted in the state but outside Town boundaries; and,

2. The articles purchased are to be delivered to the purchaser outside the Town's boundaries by either a common carrier, by personal delivery of the seller or by mail.

B. Sales of motor fuel and sales of special fuel for use in operating farm vehicles on farms and ranches. All commodities which are taxed under the provisions of the Colorado Motor Fuel Tax of 1933.

C. Sales of articles when delivery is to be made to the purchaser at a point outside the Town's boundaries or to a carrier for delivery of the articles to a purchaser at a point outside the Town's boundaries, or to a railroad company, in case the railroad company is the purchaser, or to a truck of the construction company in case of a sale to a construction company.

D. Sale of all cigarettes.

E. Sales of coins.

F. Sales of computer software that does not meet all of the following criteria:

1. The computer software is prepackaged for repeated sale or license;

2. The use of the computer software is governed by a tear-open nonnegotiable license agreement; and

3. The computer software is delivered to the customer in a tangible medium. Computer software is not delivered to the customer in a tangible medium if it is provided through an application service provider, delivered by electronic computer software delivery, or transferred by load and leave computer software delivery.

G. The sale of Construction Materials, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the Town evidencing that the Town use tax has been paid or is required to be paid.

H. Sales of Construction Materials when purchased by a contractor on behalf of an exempt institution, or governmental, religious, or charitable organization's project.

I. Sales of Essential Hygiene Products

J. All sales of Food for Domestic Home Consumption as defined in 7 U.S.C. Section 2012(k), as amended, except for items listed in 3.09.050(C) or otherwise defined in 7 U.S.C. Section 2012(k) as not applicable.

K. The sale or purchase of SNAP food purchased with food stamps or supplemental nutrition assistance program benefits.

L. The sale or purchase of WIC food purchased with vouchers, checks or WIC program benefits.

M. Sales of Internet Access Services

N. Gas, electricity, and other specified fuels for residential use Section 39-26-715(1)(a)(II), C.R.S

O. Machinery or machine tools used in the processing of recovered materials by a business listed in the inventory prepared by the Department of Public Health & Environment Section 39-26-709(1), C.R.S.

P. Sales of medical materials, equipment and drugs exempted under Section 39-26-717 C.R.S.

Q. Sales of Newspapers as defined by Section 24-70-102, C.R.S.

R. Occasional sales of tangible personal property, including those made by a charitable organization for fund-raising purposes; provided, however, the net proceeds are retained and used for a charitable purpose.

S. Sales of Prescription Drugs for Humans and Prosthetic Devices for Humans.

T. Renewable energy components Section 39-26-724, C.R.S.

U. Sales made directly to the following exempt organizations:

1. Sales to the United States government; to the state, its departments or institutions and the political subdivisions thereof, in their governmental capacities only; and all sales to the Town and any department thereof.

2. Sales to Charitable Organizations, in the conduct of their regular charitable functions and activities.

3. Sales which the Town is prohibited from taxing under the Constitution or laws of the United States, or the State

4. All sales of property and services made by public and private kindergarten through grade 12 (K-12) schools, K-12 school activity booster organizations, K-12 parent-teacher organizations, K-12 student classes and K-12 student organizations shall be exempt, provided that:

a. All proceeds of such sales are for the benefit of a K-12 school or K-12 school-approved student organization; or

b. In the case of a parent-teacher organization, all proceeds of such sales are used for the reasonable expense of the parent-teacher organization conducting such sales.

V. Sales and purchases of cattle, sheep, lambs, swine and goats; all sales and purchases of mares and stallions for breeding purposes; and all farm auction close-out sales.

W. Sales and purchase of feed for commercial feeding of livestock or poultry, and all sales and purchases of commercial seeds

X. Sales of tangible personal property to a public utility doing business both within and outside of the Town's boundaries, for use in its said business operations outside of the Town's boundaries, even though delivery is made within the Town's boundaries.

Y. The Town's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of the sales tax rate imposed by this Chapter. A credit shall be granted against the Town's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed the sales tax rate imposed by this Chapter.

Z. Sales of Carrier Access Services.

AA. Sales of Private Communications Services.

BB. Sales of WATS/800 service.

CC. The fair market value of any exchanged or traded-in property shall be excluded from the consideration or purchase price under the following conditions:

1. When such exchanged property is to be resold thereafter in the usual course of the retailer's business, if included in the full resale price of an article sold.

2. When the transaction involves the purchase of a vehicle and the exchange or trade-in of another vehicle, both vehicles are subject to licensing, registration and certification under the laws of this state. For purposes of this Section, the term vehicle shall include vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft.

3. When there is no additional consideration involved in the transaction.

4. Any money or other consideration paid which exceeds the value of the exchanged property is subject to sales tax.

DD. The retail delivery fee consisting of the community access retail delivery fee imposed in Section 24-38.5-303(7), C.R.S., the clean fleet retail delivery fee imposed in Section 25-7.5-103(8), C.R.S., the clean transit retail delivery fee imposed in Section 43-4-1203(7), C.R.S., the retail delivery fee imposed in Section 43-4-218(3), C.R.S., the bridge and tunnel retail delivery fee imposed in Section 43-4-805 (5)(g.7), C.R.S., and the air pollution mitigation retail delivery fee imposed in Section 43-4-1303(8), C.R.S., as such Sections existed on June 17, 2021.

EE. The carryout bag fee imposed in Section 25-17-505, C.R.S., as such Section existed on July 6, 2021.

FF. All sales of lodging provided to any natural person for a period of thirty (30) consecutive days or more.

GG. Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use, any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof.

HH. The storage, use or consumption of electricity, coal, coke, fuel oil or gas for use in processing, manufacturing, mining, refining, irrigation, telegraph, telephone and radio communication, street and railroad transportation services and all industrial uses, except that electricity, gas, coal, fuel oil or coke used for lighting or space heating in these operations shall not be exempt.

II. Forty-eight percent (48%) of the purchase price of a new manufactured home; except that the entire purchase price in any subsequent sale of such a manufactured home, after it has been once subject to the payment of sales or use tax under this Chapter, is exempt from taxation under this Chapter.

Sec. 3.09.070. Marketplace sales.

A. Rights and Obligations, generally.

1. A Marketplace Facilitator engaged in business in the Town is required to collect and remit sales taxes on all taxable sales made by the Marketplace Facilitator, or facilitated by it for Marketplace Sellers or multichannel sellers to customers in the Town, whether or not the Marketplace Seller for whom sales are facilitated would have been required to collect sales taxes had the sale not been facilitated by the Marketplace Facilitator.

2. A Marketplace Facilitator has all the liabilities, obligations, and rights of a retailer under this Code. Marketplace Facilitators shall be liable for the sales taxes collected from Marketplace Sellers or multichannel sellers. The Town may recover any unpaid sales taxes, penalties, and interest from the Marketplace Facilitator that is responsible for collecting on behalf of Marketplace Sellers or multichannel sellers.

3. The liabilities, obligations, and rights set forth under this Code are in addition to any duties and responsibilities of the Marketplace Facilitator has under this Code if it also offers for sale tangible personal property, products, or services through other means.

4. A Marketplace Seller, with respect to sales of tangible personal property, products, or services made in or through a Marketplace Facilitator's marketplace, does not have the liabilities, obligations, or rights of a retailer under this Code if the Marketplace Seller can show that such sale was facilitated by a Marketplace Facilitator:

5. With whom the Marketplace Seller has a contract that explicitly provides that the Marketplace Facilitator will collect and remit sales tax on all sales subject to tax under this Chapter; or

6. From whom the Marketplace Seller requested and received in good faith a certification that the Marketplace Facilitator is registered to collect tax and will collect tax on all sales subject to tax under this Chapter made in or through the Marketplace Facilitator's marketplace.

7. If a Marketplace Seller makes a sale that is not facilitated by a licensed Marketplace Facilitator in a marketplace, the Marketplace Seller is subject to all of the same licensing, collection, remittance, filing and recordkeeping requirements as any other retailer.

B. Auditing. With respect to any sale, the Town shall solely audit the Marketplace Facilitator for sales made by Marketplace Sellers or multichannel sellers but facilitated by the marketplace. The Town will not audit or otherwise assess tax against Marketplace Sellers or multichannel sellers for sales facilitated by a Marketplace Facilitator.

Sec. 3.09.080. – Effective date.

This Chapter shall become effective on January 1, 2025, and shall be subject to enforcement on and after that date.

Chapter 3.10 – Use Tax

Sec. 3.10.010. Imposition of use tax.

There is hereby levied and there shall be collected and paid a use tax of two percent (2.0%) by every person exercising the taxable privilege of using or consuming in the Town construction materials, construction equipment for a period of more than thirty (30) consecutive days, and for the privilege of storing, using or consuming in the Town any motor or other vehicles purchased at retail on which registration is required, as set forth in Section 29-2-109, C.R.S.

Sec. 3.10.020. Use tax; taxable property and services.

There is hereby levied and there shall be paid a use tax in the amount stated in Section 3.10.010, upon the following:

A. All sales of construction materials.

B. Construction equipment which is located within the boundaries of the Town for a period of more than thirty (30) consecutive days shall be subjected to the full use tax of the Town.

C. Construction equipment which is located within the boundaries of the Town for a period of thirty (30) consecutive days or less shall be subjected to Town use tax in an amount which does not exceed the amount calculated as follows:

1. The purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one (1) and the denominator of which is twelve (12), and the result shall be multiplied by the Town use tax rate.

2. Where the provisions of this Subsection (C) are utilized, the credit provisions of 3.10.030(E) shall apply at such time as the aggregate sales and use taxes legally imposed by and paid to other statutory and home rule cities, towns, and cities and counties on any such equipment equal the full use tax of the Town.

D. Upon the purchase of Motor Vehicles made by a resident of the Town, whose residency is determined by 42-6-139(1)(a), regardless of where the resident purchased the Motor Vehicle.

Sec. 3.10.030. Use tax; exemptions.

The use tax shall not apply to:

A. The sale of construction materials, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the Town evidencing that the Town use tax has been paid or the permit is exempt from taxation.

B. The sales of construction materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned and used by:

1. The United States government, the State, its departments and institutions, and the political subdivisions thereof in their governmental capacities only;

2. Charitable organizations in the conduct of their regular charitable functions and activities; or

3. Schools, other than schools held or conducted for private or corporate profit.

C. Exemption from construction materials use tax is granted only if the State of Colorado Contractors Exempt Certificate (89) that is issued to the general contractor is presented to the Town's Building Division at the time a building permit is issued.

D. Temporary storage of construction materials less than thirty (30) consecutive days.

E. The storage, use or consumption of any article of tangible personal property, the sale or use of which has already been subjected to a sales or use tax of another town, city or county equal to or in excess of that imposed by this Chapter. A credit shall be granted against the use tax imposed by this Chapter with respect to a person's storage, use or consumption in the Town of tangible personal property purchased by him or her elsewhere. The amount of the credit shall be equal to the tax paid by him or her by reason of the imposition of a sales or use tax of another town, city or county on his or her purchase or use of the property. The amount of the credit shall not exceed the tax imposed in Section 3.10.010.

F. The storage, use or consumption of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the Town and he or she purchased the vehicle outside the Town and actually so used it for a substantial and primary purpose for which it was acquired and he or she registered, titled and licensed said motor vehicle outside of the Town.

Sec. 3.10.040. Construction Materials - Use Tax payment requirements and overpayments.

A. The use tax imposed on construction materials by Section 3.10.020 shall be paid as a deposit from the taxpayer through payment to the Town of an amount equal to two percent (2.0%) of fifty percent (50%) of the total cost of the project as indicated on the application for the Town building permit or right-of-way permit. The Town shall, upon receipt of such payment, issue a permit noting exemption from payment of any further sales or use tax for the materials to be used, stored or consumed pursuant to such building permit.

B. In all cases where the use tax estimate deposit required by the provisions of this Section is made, if it is determined at the time of the completion of the construction project from the invoices and statements reflecting the purchase therefor, that the deposit made as herein required, together with the actual payments to the Town as a sales tax, is in excess of the actual use tax due therefore, the responsible person making said deposit or paying said tax may complete a reconciliation form for the Town to disclose any refund of any amount paid in excess of the actual taxes due, in which event it shall be the duty of the person making such application to furnish all necessary bills and invoices evidencing overpayment of the use tax, and, if the said Town is satisfied that there has been such overpayment, it shall refund such overpayment to the taxpayer. The application for overpayment shall be filed within ninety (90) days from the issuance of certificate of occupancy or final inspection or whichever comes later.

C. In order for a taxpayer to avail itself of the provisions of Subsection (C) of Section 3.10.020, the taxpayer shall comply with the following procedure:

1. Prior to or on the date the equipment is located within the boundaries of the Town, the taxpayer shall file with the Town an equipment declaration on a form provided by the Town. Such declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed from the boundaries of the Town, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment, and shall include such other information as reasonably deemed necessary by the Town.

2. The taxpayer shall file with the Town an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety (90) days after the equipment is brought into the boundaries of Town or, for equipment which is brought into the boundaries of the Town for a project of less than ninety (90) days' duration, no later than ten (10) days after substantial completion of the project.

3. The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under two thousand five hundred dollars ($2,500.00). If such equipment declaration is given, then as to any item of construction equipment for which the customary purchase price is under two thousand five hundred dollars ($2,500.00) which was brought into the boundaries of the Town temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as that of the Town and that such sales or use tax was previously paid. In such a case the burden of proof in any proceeding before the Town, the Executive Director of the Colorado Department of Revenue, or the district court, shall be on the Town to prove such local sales or use tax was not paid.

4. If the taxpayer fails to comply with the provisions of Subsection (3) of this Section, the taxpayer may not avail himself of the provisions of Section 3.10.020(C). However, substantial compliance with the provisions of Subsection (C) of this Section shall allow the taxpayer to avail himself of the provisions of Section 3.10.020(C).

Sec. 3.10.050. No final inspection unless use tax paid.

No final inspection shall be made by the Building Inspector, and no certificate of occupancy, temporary or otherwise, shall be issued unless the deposits due of 50% of the total cost of the project including any change orders for taxes due as provided in this Chapter have been paid or arrangements therefor made with the Director.

Sec. 3.10.060. - Motor Vehicle Use Tax

A. The use tax of two percent (2.0%) provided for herein shall be applicable to every motor vehicle for which registration is required by the laws of the State, no registration shall be made of any motor or other vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the State Department of Revenue or its authorized agents, including the County Clerk and Recorder, until any tax due upon the use, storage or consumption thereof pursuant to this Chapter has been paid.

B. The use tax imposed by this Chapter shall be collected by the authorized agent of the County Clerk and Recorder.

C. The proceeds of said use tax shall be paid to the Town periodically in accordance with an agreement entered into by and between the Town and the County Clerk and Recorder.

Sec. 3.10.070. - Incorrect registration of motor vehicle.

A. It is unlawful to register a motor vehicle in violation of the provisions of Section 42-6-139(2), C.R.S.

B. Any resident who registers a vehicle at an address other than his or her principal residence or place of business within the Town for the purpose of evading the sales or use tax shall be considered in violation of this Chapter and subject to the penalties set forth herein.

C. Any person residing in the Town, as specified by Section 42-6-139, C.R.S., who shall purchase any motor vehicle, whether new or used, from sources within or without the Town, for use within the Town, and who has not paid the tax imposed thereon by this Chapter to a vendor required or authorized to collect such tax, shall immediately, and prior to registering the vehicle pursuant to Section 42-6-139, C.R.S., and obtaining the license therefor, make a return showing such transaction to the Finance Director and thereupon pay to him or her the tax applicable thereto as provided in this Chapter, and failure to do so shall constitute a violation of this Chapter.

D. Definitions for this Section:

1. Notice of deficiency means the notice issued by the Town Manager of failure, neglect or refusal to pay any sales or use tax due or any penalties or interest thereon.

2. Penalty assessment means a written notice of the Town Manager's determination that a violation of Section 42-6-139(2), C.R.S., has occurred

and assessment and demand for the payment of the civil penalty provided for in Subsection (5) below.

E. Any person who causes a motor vehicle to be registered in violation of the provisions of Section 42-6-139(2), C.R.S., shall be assessed a five-hundred-dollar civil penalty pursuant to the authority granted in Section 42-6-139(4), C.R.S. The procedure for the assessment of such penalty shall be as follows:

1. When the Finance Director determines, on such information as is available, that a person has caused a motor vehicle to be registered in violation of the provisions of Section 42-6-139(2), C.R.S., the Finance Director shall provide to such person a penalty assessment. If the Finance Director also has determined that sales or use taxes are due to the Town on the purchase of such motor vehicle, such penalty assessment may be included in a notice of deficiency.

2. Such person shall pay such penalty assessment within the same time period provided pursuant to Subsection 3.12.310 of this Chapter for payment of any amount due pursuant to a notice of deficiency, unless such person requests a hearing in the manner provided in this Chapter.

3. If such person desires to protest such penalty assessment, such person shall request in writing a hearing from the Town Manager within the same time period provided pursuant to Subsection 3.12.310 for payment of any amount due on the notice of deficiency. The request for hearing shall also set forth the facts which show that a violation of Section 42-6-139(2), C.R.S., did not occur. The Town Manger shall issue a written decision affirming or withdrawing such penalty assessment within the same time period and in the same manner as provided pursuant to Section 3.12.020, after a hearing on a notice of deficiency. If the decision affirms the penalty assessment, such person shall pay such provided pursuant to Section 3.12.020 for payment of any amount due pursuant to a notice of deficiency.

4. Such a person may seek judicial review of the Town Manager's decision pursuant to C.R.C.P. 106(a)(4). No such judicial review shall be available if a request for hearing was not timely made in the manner provided for in this Section.

5. The Town Manager may enforce collection of such penalty assessment in the same manner as provided for the collection of unpaid use taxes, penalties or interest.

6. Nothing in this Chapter shall preclude the collection of any tax or fee provided by law, the collection of any penalties or interest thereon

provided by law, or the imposition of any other civil or criminal penalty provided by law.

Sec. 3.10.080. – Effective date.

This Chapter shall become effective on January 1, 2025, and shall be subject to enforcement on and after that date.

Chapter 3.11 - Tax Procedures

Sec. 3.11.010. Taxpayer liability and Returns.

A. It shall be a violation for any seller not to collect the tax levied by Chapter 3.09 and Chapter 3.14. It shall also be a violation of Chapters 3.09, 3.10, and 3.14 for any purchaser not to pay the tax levied or to pay the tax levied upon a sale where the status of exemption is disputed.

B. It shall be a violation of this chapter for any taxpayer to:

1. Fail to file a return with the Director as required by this Section;

2. File a false or fraudulent return with the Director. Any legal entity making a false return or a return containing a false statement shall be guilty of a violation of this Code, and such violation shall be applicable to officers, agents or members thereof who are responsible for the violation; or

3. Failure to remit the full amount due to the Director as required by this Section.

C. Burden of proof of exemption. The burden of proving that any retailer is exempt from collecting and remitting the tax upon any sales of tangible personal property, products or services subject to the provisions of this Code, and from paying over the same to the Director, shall be on the retailer, and such proof shall be by a preponderance of evidence.

D. Director may require reports and records. The Director may require any person, by regulation or notice served on such person, to make such return, render such statement, keep and furnish such records or make such information reports as the Director may deem sufficient to show whether or not such person is liable under this Chapter for payment or collection of the taxes imposed in the Code.

E. Unlawful to advertise absorption of tax. It shall be unlawful for any taxpayer or vendor to advertise, hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this Code will be assumed or absorbed by the vendor or taxpayer or that it will not be added to the selling price of the property sold, or, if added, that it or any part thereof will be refunded. Any person violating this provision shall be subject to the penalties herein provided.

F. Vendor responsibility for collection of tax. Every retailer or vendor engaged in business and selling at retail shall be liable and responsible for the payment of an amount equivalent to the amount of the tax imposed by this Code computed on the total of all sales made by the retailer or vendor of taxable commodities or services.

G. Vendor responsibility for remittance of tax. Every taxpayer obligated to collect and/or pay any of the tax imposed by this Code shall file a return and remit the total amount due to the Director in accordance with Subsection (I) of the Section.

H. Due date of returns. Returns shall be filed on or before the twentieth day of the month for the preceding month or months under report and remit the amount of tax imposed by this Code computed on the total of such sales, and also the amount of any excess tax collections. The Director may, by rule or regulation, extend the time up to one (1) year for filing returns and remitting the tax due.

I. For timely remittance of sales taxes, a vendor's fee of three and one-third percent (3.33%) of the amount of taxes to be paid under this Chapter or one hundred dollars ($100.00), whichever is less may be deducted from the taxes owed, to cover the retailer's expense of collection and remittance of the tax for the reporting period. However, if any vendor is delinquent in remitting said tax other than in unusual circumstances shown to the satisfaction of the Director, the vendor shall not be allowed to retain any amounts to cover his or her expense in collecting and remitting said tax, and an amount equivalent to the full tax shall be remitted to the Director by any such delinquent vendor.

J. Format of Returns. Every retailer or vendor engaged in business and selling at retail shall file a return and pay through the Town's electronic remittance system or through the Colorado Sales and Use Tax System (SUTS). Beginning January 1, 2025; all returns and payments required under this chapter received in paper format and/or requiring in-office processing outside that are available in the provided electronic portals shall be assessed an administrative fee of twenty-five ($25.00) dollars per filing.

K. Timely payment evidence; computation of dates.

1. Timely payment may be evidenced by the transaction processing date, postmark date if mailed; otherwise, timely payment may be evidenced by the Finance Department validation date.

2. Any due date, payment date or deadline for paying tax due, providing information or taking other action which falls on a Saturday, Sunday or legal holiday recognized by either the federal government or the State shall be extended to the first business day following such weekend or holiday.

L. If the return is not filed, or the taxes are not paid when due, the Town may make an estimate, based upon such information as may be available, of the amount of taxes due for the period or periods for which taxpayer is delinquent and shall add thereto a penalty in an amount equal to ten percent (15%) of the estimated tax, together with interest on the estimated tax at the rate of one percent (1%) per month from the due date thereof, and may assess said amount against the delinquent taxpayer by giving said taxpayer written notice thereof, which notice shall require the taxpayer either to pay the amount assessed by the Town or to petition for a correction of said estimate within a period of thirty (30) days thereafter. Any such petition for correction shall be in writing and any facts or figures in support thereof shall be submitted upon the oath of the taxpayer. The Town shall consider the matters submitted by the taxpayer and shall make a decision as to the proper amount of taxes, penalty and interest due, which decision shall be final and binding, except as modified by State statutes.

Sec. 3.11.020 Remittance of tax; electronic database; retailer held harmless.

A. All businesses reporting taxes and registering for business licenses must use the acceptable standard reporting forms and electronic portals provided by the Town or allowed for use by the Town to remit the taxes and fees owed to the Town.

B. Any retailer that collects and remits sales tax to the Town as provided in this Chapter may use an electronic database of state addresses and rates that is certified by the state department of revenue pursuant to C.R.S. Sections 39-26-105.2 or 39-26-105.3, C.R.S. to determine the jurisdictions to which tax is owed.

C. Any retailer that uses the data contained in an electronic database certified by the state department of revenue pursuant to C.R.S. Section 39-26-105.2 or 39-26-105.3, C.R.S., to determine the jurisdictions to which tax is owed and to determine the rates shall be held harmless for any tax, penalty, or interest owed the Town that otherwise would be due solely as a result of an error in the electronic database, provided that the retailer demonstrate that it used the most current information available in such electronic database on the date that the sale occurred. Each retailer shall keep and preserve such records as prescribed by the finance director to demonstrate that it used the most current information available in the electronic database on the date that the sale occurred. Notwithstanding the above, if the error in collecting and remitting is a result of a deceptive representation, a false representation, or fraud, the provisions of this Section shall not apply.

Sec. 3.11.030. Excess collections.

If any vendor shall, during any reporting period, collect as a tax an amount in excess of the rates set forth in this Code, of his or her total taxable sales, he or she shall remit to the Director the full net amount of the tax herein imposed and also such excess. If records of Town and state tax collections are kept separately, the vendor will remit the excess of the Town tax collected over and above Town net taxable sales and service. If there is no separate record kept of Town and state tax collections and it is not possible to determine the excess to be remitted to each, the vendor shall remit forty-six percent (46%) of such excess sales tax to the Town. The full excess of lodging tax shall be remitted to the Town. The retention by the vendor of any excess collections, or the intentional failure to remit punctually to the Director the full amount required to be remitted by the provisions of this Chapter, is hereby declared to be a violation of this Chapter.

Sec. 3.11.040. Refunds.

A. Generally. A refund shall be made for the tax so paid under dispute by any purchaser or if the amount paid through a tax return is greater than the amount due. Interest shall not be paid on refunds or overpayments. Such refund shall be made by the Director upon entitlement thereto shown by the applicant and only after compliance with the following conditions.

B. Applications:

1. Applications made for taxes paid by a purchaser shall be made within sixty (60) days after the purchase on which the exemption is claimed. Each application shall be supported by an affidavit of the purchaser, accompanied by the invoice or sale receipt and be made upon such forms and contain such information as shall be prescribed by the Director.

2. Applications made for taxes paid through a return by a licensed vendor shall be made within three (3) years after the sale or purchase on which the exemption is claimed. An application for a refund by a vendor shall be made within three (3) years of the return filed in which the amount paid through the return is claimed to be paid in error. Each application shall be supported by the invoice or sale receipt, evidence taxes collected have been refunded to the purchaser and support to the revised calculation of the tax return due and be made upon such forms and contain such information as shall be prescribed by the Director.

3. Applications made for overpayment related to the use tax deposit paid through a building permit shall be filed within ninety (90) days from the

issuance of certificate of occupancy or final inspection or whichever comes later.

C. Decisions. Upon receipt of such affidavit, invoice or receipt, and application, the Director shall examine the same and shall give notice to the applicant by an order in writing of its decision thereon.

D. Petition. An aggrieved applicant may, within thirty (30) days from the date of the decision to deny or reduce their claim for a refund, petition the Director in writing for review of the decision in the manner provided in Section 3.12.050 of the Code.

E. Refunds not assignable. The right of any person to a refund under this chapter shall not be assignable, and application for refund must be made by the same person who purchased the goods and paid the tax thereon as shown in the invoice for the sale thereof.

F. Penalty for violating refund provisions. Any applicant for a refund under the provisions hereinabove, or any other person, who shall make any false statement in connection with an application for a refund of any tax shall be deemed guilty of a violation of this chapter.

G. Violations of refund provisions to be used as evidence of fraudulent intent. If any person be convicted under the provisions of this Section, the proof of such conviction shall be prima facie evidence of fraud by that person in any appropriate action brought or taken for recovery of other refunds made by the Director to such person within the prior three (3) years to the conviction. A brief summary of the penalties available under this chapter for violations of it shall be printed on each form issued by the Director for application for a refund.

H. Intercity Claims for recovery. The intent of this Section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect and remit sales and use taxes to the Town.

I. As used herein, claim for recovery means a claim for reimbursement of sales and use taxes paid to the wrong Taxing Jurisdiction.

J. When it is determined by the Director that sales and use tax owed to the Town has been reported and paid to another municipality, the Town shall promptly notify the vendor that taxes are being improperly collected and remitted and that, as of the date of the notice, the vendor must cease improper tax collections and remittances.

K. The Town may make a written claim for recovery directly to the municipality that received tax and/or penalty, and interest owed to the Town or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the Town. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing his or her claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny, in whole or in part, the claim within ninety (90) days of its receipt. The municipality to which the Town submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the Town shall not be unreasonably withheld.

L. Within ninety (90) days after receipt of a claim for recovery, the Town shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the Town shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim of recovery may only be made for good cause.

M. The Town may deny the claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer or if the claim is outside of the statute of limitations.

N. The period subject to a claim for recovery shall be limited to the thirty-six-month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. This period may be extended only if a written document was approved by the Director and taxpayer to toll the running of this thirty-six-month period.

Sec. 3.11.050. Sale or purchase of business or property.

A. New license required. Any sale, transfer or purchase of an interest in a business enterprise by any person, as defined, where the respective interest of the person purchasing or selling as a result of the transaction has changed in any degree, requires, in the case of a retailer or other person required to be licensed under this Chapter, the issuance of a new license.

B. Final return. Any person, vendor, or taxpayer who sells out his or her business or stock of goods or all the assets of a business to another person, or any person or taxpayer who quits business, shall make out the return as required by this

Chapter and remit all taxes due within fifteen (15) days after the business or stock of goods is sold, or the taxpayer quits business.

C. Tax due on business property. The Town tax shall be remitted on the purchase price paid for tangible personal property that is acquired with the purchase, transfer of title or transfer of possession of a business, with the exception of items to be resold in the ordinary course of business operations of the new business. The tax shall be based on the price paid for such chattels as recorded in the bill of sale or agreement and constituting a part of the total transaction at the time of the sale or transfer, provided that the valuation is as great as or greater than the fair market value of such merchandise or chattels. Where the transfer of ownership is a package deal made by a lump-sum transaction, the tax shall be paid on the book value if no determination has been made. When a business is taken over in return for the assumption of outstanding indebtedness owed by former owners, the tax shall be paid on the fair market value of all taxable tangible personal property acquired by the purchaser. The "sale" or "sale and purchase" of a business does not include the items under Section 39-26-102(10), C.R.S. A bona fide gift of tangible personal property is not a "sale."

D. Prior taxes due. Taxes due upon the sale of a business or stock of goods include all sales taxes which were collected or should have been collected prior to the sale, and all use taxes accruing or payable prior to the sale.

E. Purchaser to withhold payment until tax paid. The purchaser or successor to the business, stock of goods or assets shall withhold sufficient of the purchase money to cover all of said taxes until such time as the former owner produces a receipt from the Director showing that all taxes have been paid in full.

F. Purchaser liable for prior owner's unpaid tax. The purchaser of a business is liable for any unpaid tax of a predecessor. Vendors or consumers having outstanding accounts on which sales or use tax has not been remitted must compute and pay the tax at the time of sale.

G. Seller and seller's agent liable for tax. The seller or his or her agent will be held liable for tax remittance on the sale of business in the event the purchaser fails to remit the tax due on the purchase.

H. Seller and purchaser are both liable. Until all taxes due under this Section are paid in full, both the former owner and the purchaser shall remain personally liable thereon and subject to all collection proceedings available under this Chapter. Action by the Town against the former owner shall not prevent the exercise by the Town of all remedies provided herein against the successor owner.

I. Delinquent taxes a lien on property. Any person who takes or purchases personal or real property under lease, title-retaining contract or other contract arrangement, by purchase, foreclosure sale or otherwise, takes the same subject to any lien as set forth in Section 3.13.050 for any delinquent taxes owed by the original owner and shall be liable for the payment of all delinquent taxes, interest, penalty and collection costs of such prior owner, not however, exceeding the value of the property so taken or acquired. Any person who takes title to or possession of any real property upon which a tax is owed takes said property subject to the lien for said delinquent tax and shall be liable for the payment thereof to the extent of the tax, interest, penalties and collection costs.

Sec. 3.11.060. – Effective date.

This Chapter shall become effective on January 1, 2025, and shall be subject to enforcement on and after that date.

Chapter 3.12 - Tax Administration

Sec. 3.12.010. Limitations.

A. General limitations.

1. Statute of limitations. Except as provided in this Section, the taxes for any period, together with the interest thereon and penalties with respect thereto, imposed by this Code shall not be assessed nor credit taken, nor shall any notice of lien be filed, distraint warrant be issued, suit for collection be instituted or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period.

2. In the case of a failure to make a return or in the case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time.

3. The commencement of collection proceedings, payment arrangements, or the mailing of a notice of audit shall toll the running of the statute of limitations.

4. For purposes of the application of the statute of limitations to use tax paid on a building permit, tax shall not be assessed, nor shall any notice of lien be filed, distraint warrant be issued, suit for collection be

instituted, or any other action to collect the same be commenced, more than three (3) years after the date of the certificate of occupancy.

5. Taxpayer's retention of records. It shall be the duty of every person liable to the Town for any tax to keep and preserve for a period of at least four (4) years following the due date of the return or the payment of the tax all such books, invoices and other records necessary to determine the tax, and the same shall be open for examination by the Director. The taxpayer shall maintain its books, invoices, accounts or other records until the examination, inspection and audit is completed.

Sec. 3.12.020. Director to examine returns, permits, and records.

A. The Director is authorized to examine, inspect and audit the books, invoices, accounts and other records kept or maintained by the taxpayer for the collection or payment of the taxes imposed by this chapter. If the Director determines that any taxpayer neglects or refuses to make a timely return in payment of the taxes or to pay or to correctly account for any taxes as required by this chapter, the Director shall make an estimate, based upon such information as may be available, with or without employing investigative powers vested in the Director by this chapter, of the amount of the taxes due for the period or periods for which the taxpayer is delinquent; and upon the basis of such estimated amount, compute and assess in addition thereto a penalty equal to fifteen (15) percent thereof, together with the interest on such delinquent taxes at the rate of one (1) percent each month, or a fraction thereof, from the date when due until the date paid.

B. Promptly thereafter the Director shall notify the delinquent taxpayer in writing and demand payment thereof of such estimated taxes, penalty and interest by issuing a Notice of Final Determination; Assessment and Demand for Payment.

C. Such estimated amounts shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town thirty (30) days from the date of the notice and demand; provided, however, that within said thirty-day period the delinquent taxpayer may petition the Director in writing for review of the assessment in the manner provided in Section 3.12.050 of the Code. The filing of a petition shall not toll the accrual of interest on the amount of taxes due.

D. Interest and penalty assessment. Interest and penalties shall be paid upon notice and demand, and shall be assessed, collected and paid in the same manner as the tax to which it is applicable. If any portion of a tax is satisfied by credit of an overpayment, no interest or penalty shall be imposed under this Section on the portion of the tax so satisfied. A penalty equal to the greater of the sum of fifteen dollars ($15.00) or ten percent (10%) thereof, and interest is calculated on such delinquent taxes at the rate of one percent (1%) from the date when due.

E. Penalty for fraud. If any deficiency in taxes paid is due to fraud with the intent to evade the tax, there shall be added, instead of the penalty prescribed in Subsection (4) above, a penalty of one hundred percent (100%) of the total amount of the deficiency to the assessment required by Subsection (1) above. Interest shall accrue and be collected at a rate of one percent (1%) per month on the amount of such deficiency from the time the return was due.

F. Special penalty for repeated enforcement. In any assessment issued to a person, vendor or taxpayer against whom enforcement proceedings have been commenced in the past thirty-six (36) months, a special penalty, in addition to all others provided in this Code, shall also be assessed. This special penalty shall be equal to the greater of two hundred fifty dollars ($250.00) or twenty-five percent (25%) of the tax deficiency. For purposes of this Subsection, enforcement proceedings shall mean:

1. Issuance of a distraint warrant;

2. Filing of a lawsuit in the district or county court; or

3. Three (3) occurrences of the revocation of the person's, vendor's or taxpayer's license by the Director or issuance of a summons to Municipal Court for the nonpayment of taxes or a combination of revocations and summonses.

G. Director may waive penalty. The Director is hereby authorized to waive, for good cause shown, any penalty assessed as provided in this Code. In case of waiver of penalty, the interest shall be deemed a penalty. If the Director finds that a taxpayer has, in good faith, paid tax to a vendor, the Director is hereby authorized to abate the interest and penalty in its entirety.

Sec. 3.12.030. Audits.

A. The Director, Town staff or a contract auditor as designated by the Director, may, at any time within three years of the date the tax was due or the certificate of occupancy date, for the purpose of ascertaining the correct amount of tax due from any return, construction permit or construction equipment declaration, conduct an audit by examining any relevant books, accounts, and records of such person the responsible party and by interviewing the taxpayer and the taxpayer's officers, agents, and employees. The mailing of a notice of audit shall toll the running of the statute of limitations.

B. The Director may assess the taxpayer for all expenses associated with retrieving the documentation from the responsible person and sending auditors to the location selected by the taxpayer and for reasonable travel expenses, including food and lodging and travel costs, incurred by the auditors during the period necessary to conduct the audit from the time they depart the Town and until their return to the Town. Such liability, net of any deposit, shall be stated in the final audit and assessment and shall be treated as a debt owing to the Town.

C. The Town shall be entitled to charge an hourly fee for time spent auditing taxpayer records for audit of project reconciliation or tax returns. Such fee shall be set by the Town Manager or the Director as the Town Manager's designee and shall be based on the actual labor costs incurred by the Town for such time spent.

D. Coordinated audits with other jurisdictions.

1. Any taxpayer licensed in the Town and holding a similar sales tax license in at least four (4) other Colorado municipalities that administer their own sales tax collection may request a coordinated audit as provided herein.

2. Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Director of the Town, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage-of-time-based limitation upon the Town's right to recover tax owed by the vendor for the audit period.

3. Except as provided in Subsection (7) below, any taxpayer who submits a complete request for a coordinated audit and promptly signs a waiver of limitation, if required, may be audited by the Town during the twelve (12) months after request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

E. If the Town desires to participate in the audit of a taxpayer who submits a complete request for a coordinated audit pursuant to Subsection (3) above, the Director shall so notify the finance director of the municipality whose notice of audit prompted the taxpayer's request within ten (10) days after receipt of the taxpayer's request for a coordinated audit. The Director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

F. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the Town, the Town's Director shall facilitate arrangements between this Town and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The Director shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

G. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the Town, the Town's Director shall, once arrangements for the coordinated audit between this Town and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The Director shall also propose a schedule for the coordinated audit.

H. The Town may conduct an audit in conjunction with another municipality at its own discretion.

I. The coordinated audit procedure set forth in this Section shall not apply:

1. When the proposed audit is related to a jeopardy assessment;

2. To audits for which a notice of audit was given prior to the effective date of this Chapter;

3. When a taxpayer refuses to promptly sign a waiver of limitation; or

4. When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in Subsection (4)(b) above.

Sec. 3.12.040. Notice by mail.

The taxpayer shall at all times have the burden of ensuring that his or her correct mailing address, e-mail address and fax number are on file with the Director. In the event that a notice is sent to the taxpayer pursuant to this Code and said notice is not received by the taxpayer through no fault of the Town, such notice shall be deemed given on the date mailed, and the Town shall have no further obligation to complete service of the notice.

Sec. 3.12.050. Hearings and Appeals.

A. Request for hearing. Any taxpayer may request a hearing on any proposed tax within thirty (30) calendar days of receiving from the Director a Notice of Final Determination; Assessment and Demand for Payment, or a Denial of Refund. The request for hearing shall set forth the taxpayer's reasons for and the requested changes in the Director's determination.

B. Hearing time and place. The Director shall notify the taxpayer in writing of the time and place for such hearing thirty (30) calendar days prior thereto, unless the taxpayer requests shorter notice or an extension of time.

   1. In no event shall the hearing be held more than one hundred eighty (180) days after the Director's receipt of request for a hearing, unless the taxpayer and Director agree in writing: (1) that the hearing shall be held and a decision issued within such further agreed time or (2) that no hearing shall be held before the Town Manager, in which case, the taxpayer may pursue further review in accordance with Subsection (6) of this Section.

   2. If none of the events described in Subsection (B)(1) of this Section have occurred, the Director may notify the taxpayer in writing that the Director does not intend to conduct a hearing, in which case, the taxpayer may pursue further review in accordance with Subsection (F) of this Section.

C. If none of the events described in Subsections (B)(1) or (B)(2) of this Section have occurred, the taxpayer may pursue further review in accordance with Subsection (6) of this Section any time after one hundred eighty (180) days or such further agreed time has passed.

D. Time limitation on request for hearing. After the expiration of thirty (30) calendar days from the date that the Director's Notice of Final Determination; Assessment and Demand for Payment or Denial of Refund is sent, if the tax has not been paid, or if no request for hearing has been filed with the Director or if a request for hearing has been filed but no written brief has been filed by the taxpayer, then the Director's Notice of Final Determination; Assessment and Demand for Payment or Denial of Refund shall constitute a final determination. The Director may promptly take necessary steps to collect all amounts owed. The taxpayer shall have no further right to a hearing, trial or appeal on the facts of the case.

E. Director may adjust tax under question. Based on the evidence presented at any hearing or filed in support of the taxpayer's contentions, the Director may modify or abate in part or in full the tax and the interest and penalty related to such tax questioned at the hearing or may approve a refund.

F. De novo review or appeal. The taxpayer may proceed to have a final order or decision of the Director involving sales and use taxes imposed by this Code reviewed under the procedures set forth in Section 29-2-106.1, C.R.S. within thirty (30 days) with the Executive Director at the Colorado Department of Revenue.

G. Review of order or decision involving any lodging or excise tax imposed in this Code. Should the taxpayer be aggrieved by a final order or decision of the Director involving lodging or other excise taxes, the taxpayer may proceed to have the same reviewed under Colorado Rules of Civil Procedure 106(a)(4) by the district court for the second judicial district of the state. The petition or complaint for review must be filed within thirty (30) days from the date of the final order or decision. Any party, including the Town, may appeal the final order or decision of the Director and, also, the decision of the district court (or such other tribunal having jurisdiction), using all judicial, appellate, and extraordinary proceedings available. Before filing a petition or complaint for review under Colorado Rules of Civil Procedure 106(a)(4), the taxpayer shall file with the Director a bond in twice the amount of the taxes, interest and other charges audited and stated in the final order or decision of the Director, with surety as is provided in other cases of appeal, or may deposit lawful money of the United States in the same manner as herein provided.

H. Tax due date after hearing. Unless an appeal is taken as provided above, the tax, together with interest thereon and penalties, if any, shall be paid within thirty (30) days after the hearing determination notice is sent by the Director to the taxpayer.

Sec. 3.12.060. – Effective date.

This Chapter shall become effective on January 1, 2025, and shall be subject to enforcement on and after that date.

Chapter 3.13 - Tax Enforcement

Sec. 3.13.010. Jeopardy Assessment.

A. Jeopardy assessment. If the Director finds that collection of the tax will be jeopardized by delay, in his or her discretion, he or she may declare the taxable period immediately terminated, determine the tax and issue notice and demand for payment thereof; and, having done so, the tax shall be due and payable forthwith, and the Director may proceed immediately to collect such tax as provided in Section 3.13.020.

B. Immediate enforcement action. In any other case wherein it appears that the revenue is in jeopardy, the Director may immediately issue demand for payment; and, regardless of the provisions of Sections 3.12.050, the tax shall be due and payable forthwith and, in his or her discretion, the Director may proceed immediately to collect said tax as provided in Section 3.12.020.

C. Security for payment. Collection under either Subsection (A) or (B) of this Section may be stayed if the taxpayer gives such security for payment as shall be satisfactory to the Director.

Sec. 3.13.020. Director's remedies in case of nonpayment.

A. So long as a final assessment remains unpaid, the Director may take any of the following enforcement procedures against the defaulting taxpayer:

1. Take such action as deemed necessary to revoke the taxpayer's sales tax license.

2. Issue a summons to the person, vendor or taxpayer to appear in Municipal Court on charges of violating this Code.

3. Issue a distraint warrant pursuant to this Code.

4. File a complaint in the county or district court to collect all amounts owed.

B. Regardless of the collection or enforcement procedures invoked by the Director, all unpaid taxes, penalties and interest shall be secured by a lien arising by operation of law as provided by this Code.

Sec. 3.13.030. Enforcing collection by distraint.

A. Warrant. The Director may issue a warrant under his or her own hand directed to any representative of the Department of Finance, including the sheriff of any county of the State, commanding him or her to distraint, seize and sell the personal property of the taxpayer, except such personal property as is exempt from execution and sale, for the payment of the tax due, together with penalties and interest accrued thereon and collection costs:

1. When any deficiency in tax is not paid within thirty (30) days from the date of Notice of Final Determination; Assessment and Demand for Payment therefor and no hearing has been requested and no appeal from such deficiency assessment has been docketed with any district court of this State within said period;

2. When any other amount of tax, penalty or interest is not paid within thirty (30) days from the date of the assessment and demand for payment thereof; or

3. Immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in Section 3.13.010.

B. Distraint seizure.

1. The agent charged with the collection shall make or cause to be made an account of the goods or effects distrained, a copy of which, signed by the agent making such distraint, shall be left with the owner or possessor, or at his or her usual place of abode with some member of his or her family over the age of eighteen (18) years, or at his or her usual place of business with his or her stenographer, bookkeeper or chief clerk; or, if the taxpayer is a corporation, shall be left with any officer, manager, general agent or agent for process, with a note of the sum demanded and the time and place of sale. If said notice cannot be served on the taxpayer within thirty (30) miles of the Town, it shall be mailed to the taxpayer's last known address, return receipt requested.

2. The agent shall forthwith cause to be published a notice of the time and place of sale, together with a description of the property to be sold, in some newspaper within the county wherein distraint is made or, in lieu thereof and in the discretion of the Director, the agent or sheriff shall cause such notice to be publicly posted at the courthouse of the county wherein such distraint is made, and copies thereof to be posted in at least two (2) other public places within said county.

3. The time fixed for the sale shall not be less than ten (10) days nor more than sixty (60) days from the date of such notification to the owner or possessor of the property and the publication or posting of such notices. Said sale may be adjourned from time to time by said agent or sheriff if he or she deems it advisable, but not for a time to exceed in all ninety (90) days from the date first fixed for the sale. When any personal property is advertised for sale under distraint as aforesaid, the agent or sheriff making the seizure shall proceed to sell such property at public auction, offering the same at not less than a fair minimum price, including the expenses of making the seizure and of advertising the sale. If the amount bid for the property at the sale is not equal to the fair minimum price so fixed, the agent or sheriff conducting the sale may declare the same to be purchased by him or her for the Town. The property purchased may be sold by the agent or sheriff under such regulations as may be prescribed by the Director.

4. The real property, goods, chattels or effects so distrained shall be restored to the owner or possessor if, prior to the sale, the amount due is paid, together with the fees and other charges, or may be redeemed by any person holding a chattel mortgage or other evidence of right of possession.

C. Certificate of sale and evidence of purchase. In all cases of sale, the agent or sheriff making the sale shall issue a certificate of sale to each purchaser, and such certificate shall be prima facie evidence of the right of the agent or sheriff to make such sale and the conclusive evidence of the regularity of his or her proceedings in making the sale; and shall transfer to the purchaser all right, title and interest of such delinquent taxpayer in and to the property sold. Where such property consists of certificates of stock in the possession of the agent or sheriff, the certificate of sale shall be notice, when received, to any corporation, company or association of said transfer, and said certificate of such sale shall be authority for such corporation, company or association to record the transfer on its books and records. Where the subject of sale is securities or other evidence of debt in the possession of the agent or sheriff, the certificate of sale shall be good and valid evidence of title in the person holding the same, as against any other person. Any surplus remaining above the taxes, penalties, interest, all costs and all expenses of making the seizure and of advertising the sale shall be returned to the owner or such other person having a legal right thereto; and, on demand, the Director shall render an account in writing of the sale. Expenses of a seizure include all reasonable costs and expenses incurred by the Town in enforcing collection by distraint, including but not limited to attorney's fees and all personnel costs of the Town.

Sec. 3.13.040. Recovery of unpaid tax by action at law.

A. Action at law. The Director may also treat any such taxes, penalties or interest due and unpaid as a debt due to the Town from the taxpayer personally. In case of failure to pay the tax or any portion thereof, or any penalty or interest thereon when due, the Director may receive at law the amount of such taxes, penalties, interest and collection costs in such county or district court of the county wherein venue may be proper under the applicable rule of civil procedure. The return of the taxpayer or the assessment made by the Director as herein provided shall be prima facie proof of the amount due.

B. Writs of attachment. Such actions may be actions in attachment, and writs of attachment may be issued to the sheriff. In any such proceedings, no bond shall be required of the Director, nor shall any sheriff require of the Director an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Director may prosecute appeals or writs of error in such cases without the necessity of providing a bond, therefore. The Town Attorney, when requested by the Director, may commence action for the recovery of taxes due under this Code, and this remedy shall be in addition to all other existing remedies or remedies provided in this Code.

C. Civil action to enforce a lien against real property. In any case where there has been a refusal or neglect to pay any tax due the Town, the Director may cause a civil action to be filed in the district court of the county in which is situated any real property which is subject to said tax, to enforce the lien of the Town for such tax upon the real property situated in that county or in any other county in the State which may be subject to such lien or to subject any real property or any right, title or interest in real property to the payment of such tax. The court shall decree the sale of such real property and distribute the proceeds of such sale, according to the findings of such court, in respect to the interest of the parties and of the Town. The proceedings in such action and the manner of sale, the period for and manner of redemption from such sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires.

D. Exhaustion of administrative remedies. No lawsuit may be filed by the Town until the time for the taxpayer to exercise his or her administrative remedies or to file an appeal has expired. This remedy shall be in addition to all other existing remedies available to the Town. No de novo trial of the facts shall be permitted if the taxpayer has had a hearing before the Director or has had the opportunity for such a hearing but failed to exhaust his or her administrative remedies.

Sec. 3.13.050. Sales and use tax constitute a lien.

A. Any sales or use tax imposed by this Code, together with the interest and penalties herein provided, and the cost of collection, shall be a first and prior lien upon:

1. The goods, stock-in-trade and business fixtures of or used by any taxpayer under lease, title-retaining contract or other contractual arrangement; and

2. The real and personal property owned or leased by any such taxpayer, including personal property affixed to real property, shall take precedence on all such property over other claims and mortgages.

B. This lien shall arise upon the day the tax becomes due and payable and shall be extinguished by operation of law when the tax is paid in full, including any interest, penalty and collection costs.

C. In the event that any taxpayer subject to the tax imposed by this Code shall be in bankruptcy or debtorship, all taxes, penalties, and interest, which accrued prior to the filing of the bankruptcy, shall remain a prior and preferred claim and lien against all real property, goods, furniture and fixtures, tools and equipment used by the taxpayer in conducting the business. Similarly, all taxes, penalties, and interest imposed which accrue after the filing of the bankruptcy shall remain a prior and preferred claim and lien against all real property, goods, furniture and fixtures, tools and equipment used by the taxpayer in conducting its business, during the course of the bankruptcy, except as otherwise provided by preemptive federal law. To the extent any of the Director's authority to pursue collection of taxes, penalty, or interest imposed is stayed or otherwise impacted by preemptive federal law, the Director is authorized to use procedural and substantive federal remedies to facilitate collection of the tax, penalty, or interest.

D. At any time a tax has accrued but is unpaid, the Director may issue a notice of tax lien, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the Town claims a first and prior lien therefor on the real and tangible personal property of the taxpayer. Said notice may be filed in the office of the clerk and recorder of any county in the state in which the taxpayer owns real or tangible personal property. Issuance of such notice and filing thereof shall be at the discretion of the Director and shall not affect the priority or validity of the lien provided by this Code, which arises by operation of law when the tax accrues and is payable.

E. Any representative of the Director to whom a distraint warrant has been issued may file a notice of lien on such forms as the Director may prescribe with the person in possession of any personal property or rights to property belonging to the taxpayer if not previously recorded with the county clerk and recorder. The Director may release said lien as to any part or all of the property or rights to property covered by such lien upon such terms as he or she may deem proper.

F. Any lien for taxes as shown on the records of the county clerk and recorder as herein provided, upon payment of all taxes, penalties and interest covered thereby, shall be released by the Director in the same manner as mortgages and judgments are released.

Sec. 3.13.060. Certificate of discharge.

A. Certificate of discharge subject to lien. If any property, real or personal, under the law, shall be subject to a lien for the payment of any tax due the Town, the Director may issue a certificate of discharge of any part of the property subject to the lien if he or she finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect to such tax and the amount of all prior liens upon such property.

B. Certificate of discharge to part of property. If any property, real or personal, under the law, shall be subject to a lien for the payment of any tax due the Town, the Director may issue a certificate of discharge of any part of the property subject to the lien if there is paid over to the Director in part satisfaction of the liability in respect to such tax an amount determined by the Director, which shall not be less than the value, as determined by him or her, of the interest of the Town in the part to be so discharged.

C. How values are determined. In determining such values, the Director shall give consideration to the fair market value of the part to be so discharged and to such liens thereon as have priority to the lien of the Town.

D. Certificate of discharge conclusive. A certificate of discharge or of partial discharge issued under Subsections (1) or (2) of this Section shall be held conclusive that the lien of the Town upon the property released therein is extinguished, but shall not extinguish, nor release, any portion of the lien or property not specified in the release.

Sec. 3.13.070. Compromise.

The Director may compromise any assessment or claim for refund or credit arising under this Chapter.

Sec. 3.13.080. Evasion or avoidance of tax.

A. It shall be a violation of this Code for any retailer, vendor, consumer, purchaser or any other person subject to the tax levied by Code to refuse to make any return provided to be made; to make any false or fraudulent return or any false statements in any return; to fail or refuse to make payment to the Director of any taxes collected or due the Town; in any manner to evade the collection and payment of the tax or any part thereof; or for any person or purchaser to fail or refuse to pay such tax, evade the payment thereof or aid or abet another in any attempt to evade the payment of the tax imposed by making a false return or a return containing a false statement. Such a person shall be subject to prosecution and the imposition of penalties as provided by law. Any person in violation of any Section of this Code shall be subject to these same penalties.

B. Separate violations. Each and every twenty-four-hour continuation of any violation shall constitute a distinct and separate offense.

C. Personal liability. Any taxpayer, or person who executes any form or report required by this Code to be submitted to the Town, shall be personally responsible for the payment of any taxes required.

D. Summons to court for violations of code. The Town Manager or his or her duly authorized agents, including personnel of the Department of Finance, have the authority of peace officers, as that term is defined under the Colorado Municipal Court Rules, to summon into Municipal Court any person who may be in violation of this Chapter as set forth under Subsection (1) above.

Sec. 3.13.090. Violations.

It shall be unlawful for any person to violate any of the provisions of the Chapter. Any violation of this Chapter shall be punishable under the penalty provisions of this Code.

Sec. 3.13.100. – Effective date.

This Chapter shall become effective on January 1, 2025, and shall be subject to enforcement on and after that date.

TITLE 5 – BUSINESS LICENSES AND REGULATIONS

Chapter 5.12 – License Requirements

Sec. 5.12.000 Definitions.

A. The following words, terms and phrases when used in this Chapter shall have the meanings ascribed to them as set forth in this Section, except where the context clearly indicates a different meaning:

“Business” means all activities engaged in or caused to be engaged in with the object of gain, benefit or advantage, direct or indirect.

“Employees” means people working within the Town for remuneration under the control and direction of an employer.

“Mobile food vending” is defined as the use of a motorized wheeled vehicle, or a towed wheeled vehicle, or pushcart, or other temporary operation designed and equipped to prepare and/or serve food and/or non-alcoholic beverages.

"Town engaged business" means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption. Engaged in business in the Town includes, but is not limited to, any of the following activities by a person:

1. Directly, indirectly or by a subsidiary maintaining a building, store, office, salesroom, warehouse or other place of business within the Town.

2. Sending one (1) or more employees, agents or commissioned salespersons into the Town to solicit business or to install, assemble, repair, service or assist in the use of its products or for demonstration or other reasons.

3. Maintaining one (1) or more employees, agents or commissioned salespersons on duty at a location within the Town.

4. Making more than one (1) delivery into the Town within a twelve-month period.

5. Participating in Seasonal Sales, Farmer's Markets, or Special Events in the Town.

6. Mobile food vending in the Town.

5.12.010 - License required.

A. It shall be unlawful for any person to establish any place of business in the Town, or engage in business within the Town, without first obtaining a license from the Town to conduct such business. Only one (1) general business license shall be required for any establishment operating as a single enterprise. Separate general business licenses shall be required for each location of an enterprise operating at more than one (1) location within the Town. Business licenses cannot be transferred upon a change of ownership.

B. Retailers holding a state standard retail license that ensures payment of sales and use tax to the Town and who qualify for a general business license free of charge as allowed under certain conditions of Section 39-26-802.9, C.R.S.; do not need to obtain a sales and use tax license directly with the Town. They will be provided a Town specific license number for record keeping and tracking of the sales and use taxes paid from either the Town's electronic remittance system or the Colorado Sales and Tax System.