

CHAPTER 11

Streets, Sidewalks and Public Property

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ARTICLE I

Street Grades

Sec. 11-1. Purpose.

The purpose of this Article is necessary so that public streets within the Town will be developed in an orderly manner, providing for proper drainage and disposal of surface water. (Prior code 12.08.010)

Sec. 11-2. Official grade map.

(a) The recommended elevations shown on the grade and drainage map as prepared by Robert F. Harrison and Associates, Inc. and filed with the Town Clerk on February 12, 1964, shall be the official elevation for the streets in the Town and all future street construction shall conform with the elevations as shown.

(b) The elevations shown on this map and on all future elevation indications shall refer to elevations above sea level as used and indicated by the United States Coast and Geodetic Survey.

(c) The elevations of all points between the points indicated on the map shall be determined by a uniform slope between elevations indicated. (Prior code 12.08.020)

Sec. 11-3. Changes in map.

(a) Revisions, changes and/or extensions of the official grade map may be made at any time by the Town Engineer or by a state-registered professional engineer designated by resolution of the Board of Trustees. Only one (1) engineer or engineering firm may be so designated at one (1) time, and a new designation shall revoke previous designations.

(b) Any revisions, changes and/or extensions shall be filed with the Town Clerk along with a certificate by the Town Engineer or the above-designated engineer that such revision, change and/or extension has been made with full consideration of existing grades and the existing official grade map, and will result in overall satisfactory surface drainage.

(c) The latest filed revision, change and/or extension shall be the official grades to be followed by all parties. (Prior code 12.08.030)

Sec. 11-4. Additions or annexations.

Any new additions or annexations to the Town shall, before acceptance by the Board of Trustees, have a grade map filed with the Town Clerk and shall include the above required certificate by the Town Engineer or the above-designated professional engineer. (Prior code 12.08.040)

Secs. 11-5—11-20. Reserved.

ARTICLE II

Access and Excavations

Sec. 11-21. Permit required; fees.

(a) No person shall construct, install or connect any private street, driveway or access on or to any public street, alley or other right-of-way, nor disturb any pavement, sidewalk, trail, driveway or other surfacing, or dig or excavate in, on, over or through any street, alley, sidewalk, trail or other public way, without first securing a permit to do so from the Director of Public Works and paying the applicable fee; except in cases of clear emergency where immediate action is required to protect public safety and property, in which event a written report of said action shall be made to the Director of Public Works as soon as possible thereafter and a permit secured for said action after the fact.

(b) The fees for permits issued under this Article shall be established by the Board of Trustees. No portion of a fee shall be refundable.

(c) The Director of Public Works may waive the fee for excavations in paved and unpaved surfaces upon prior arrangement and inspection by the Public Works Department assuring proper completion of the project.

(d) Access to or excavations in, on, under or through any street or road that is part of the state highway system must first be approved and permitted by the appropriate state agency. (Prior code 12.04.010; Ord. 6-1998, §8; Ord. 7-1999 §1)

Sec. 11-22. Permit to be secured in advance; exception.

Any person desiring to do any of the acts provided for in Section 11-21 must secure a permit to do so from the Town in advance of the commencement of any work, except in cases of emergency, as provided in Section 11-21, and must give the Town information regarding the location of the proposed access, disturbance or excavation, the date the same is to be completed, the purpose for which it is being done or was done, and such other information as from time to time may be required by regulation of the Town. (Prior code 12.04.020; Ord. 6-1998, §8; Ord. 7-1999 §1)

Sec. 11-23. Regulations.

(a) The actual number, location and size of any proposed access point to, or cut or excavation to be made in, a public way shall be determined by the Public Works Department of the Town using generally accepted professional engineering standards, inclusive of access standards developed by the Colorado Department of Transportation.

(b) All excavations or cuts to the surface of a public way shall be made by the permittee on both sides of the proposed trench with a concrete saw, pipe saw or other suitable tool. All cut lines shall be neat and straight.

(c) The permittee shall be required to place his or her subsurface installation a minimum number of inches beneath the surface of the Town's right-of-way. The depth of the subsurface installation shall be determined by the Public Works Department.

(d) All material taken from the cut or excavation and not used in the backfill shall be removed and disposed of by the permittee at the time of the cut and excavation. Other materials shall be stored on the site so as to minimize interference with traffic.

(e) Backfill of any excavation made in a street or alley right-of-way shall conform with the following:

(1) Backfill materials shall be placed in layers or lifts not to exceed twelve (12) inches in uncompacted thickness.

(2) Backfill material shall only be native or imported materials containing no stones larger than eight (8) inches in diameter.

(3) Compaction shall be accomplished only with equipment specifically designed for trench compaction, which equipment shall be approved by the Public Works Director.

(4) All backfill material shall be placed when wet so as to achieve ninety-five percent (95%) of maximum dry density.

(5) The top eight (8) inches of the excavation shall be filled with aggregate base course (Class 6).

(6) The top of the aggregate base course shall be finished flush with the adjacent pavement or slightly above to allow for settling.

(7) All compaction must be inspected and approved by the Public Works Director.

(f) All asphalt patches shall be done by the Public Works Department.

(g) If, during the course of making the street opening, the permittee discovers that rock must be blasted in order to facilitate completion of said street opening, the procedure shall be as follows:

(1) The blasting must be accomplished by an individual who possesses a current state explosives permit.

(2) The individual retained to do the required blasting, whether he or she is the permittee or the permittee's agent, must contact the Chief of Police prior to doing the blasting and obtain a letter of authorization to blast. The blaster must present evidence that he or she possesses a current state explosives permit to the Chief of Police at the time of initial contact.

(3) If the Chief of Police is satisfied that the individual does in fact possess a current state explosives permit, he or she shall write a letter of authorization for the individual to do the required blasting. The letter of authorization shall contain: the name of the individual to do the blasting, the identification number of the individual's explosives permit, date and approximate time the blasting will be done, and the location where the blasting will take place.

(h) Where a subsurface installation is to cross any ditch, canal or water-carrying structure, wherever possible it shall be pushed through and beneath in a pipe of larger diameter, thereby

eliminating the necessity of trenching. In no case shall the flow of water be impaired or interrupted, except with prior written consent of the owner(s) of the waterway and the water.

(i) All work must be accomplished by the permittee in accordance with accepted good practices and conform to the recommendations of the National Electric Safety Code, ordinances of the Town, such state statutes as are applicable, such Occupational Health and Safety Administration (OSHA) regulations as are applicable, and such Colorado Occupational Safety and Health (COSH) regulations as are applicable.

(j) The permittee shall maintain the subsurface installation at all times and agree to hold the Town, agencies thereof and their officers and employees harmless from any and all loss and damage which may arise out of or be connected with the installation, maintenance, alteration, removal or presence of the subsurface installation, or any work or facility connected therewith.

(k) The work shall be completed within a specified number of days, as shown on the street opening permit, from the date of the issuance of the permit. No work shall be performed on Saturdays or Sundays. No open trench shall be permitted in traveled roadways after dark, unless otherwise specified in the special provisions shown on the permit form.

(l) The permittee will be required to shut off lines and remove all combustible materials from the street right-of-way when requested to do so by the Town because of necessary street construction or maintenance operations.

(m) If the Town so requires, the permittee shall mark the subsurface installation with markers acceptable to the Town at the locations designated by the Town.

(n) Permits involving encroachment on state highways situate within the municipal boundaries of the Town require concurrence by the State Division of Highways prior to the issuance of a permit by the Town.

(o) The traveling public must be protected during the installation with proper warning signs or signals both day and night. Warning signs and signals shall be installed and maintained by and at the expense of the permittee and in accordance with directions given by the Public Works Director.

(p) The permittee shall be required to submit an accurate sketch of its proposed installation at the time of application for a street opening permit. Said sketch shall show lineal distances from the site of the proposed installation to surrounding landmarks such as street right-of-way lines, fire hydrants, street intersections and known locations of existing underground utility lines. (Prior code 12.04.030; Ord. 7-1999 §1)

Sec. 11-24. Restoration; time of responsibility.

The disturbed portion of the public right-of-way shall be restored to its original condition and maintenance by the permittee at his or her cost for a period of one hundred twenty (120) days following the completion of the project. Additionally, any curbs, gutters, sidewalks or other street improvements or private property altered, damaged or destroyed by the permittee shall promptly be repaired or replaced by the permittee. (Prior code 12.04.040)

Sec. 11-25. Time limit on permit.

Unless said permit is granted for a further length of time, no permit shall be granted for a period greater than five (5) days from the date on said permit, excluding Sundays and legal holidays. (Prior code 12.04.050)

Sec. 11-26. Distribution of permit to utilities.

The Town Clerk, upon the issuance of any permit as hereinabove provided, shall immediately send a copy of said permit to the managing officer of each utility, whether private or public, having franchises or other permit or permission to use the public streets and alleys of said Town for their purposes, in order that said utilities, whether public or private, may be alerted in the event that the permittee may be excavating in the area or position of the location of other utilities or franchises. (Prior code 12.04.060)

Sec. 11-27. Utility location map.

The Town Clerk, from and after the date of the passage of the ordinance codified in this Article, shall maintain a location map of the Town, on which shall be shown the location, as taken from the permits issued, of all utility lines, service connections, poles and facilities located in, on or under the streets, alleys, sidewalks or public ways of the Town, and said map shall be made available for inspection or copy by an interested party at any time. (Prior code 12.04.070)

Sec. 11-28. Liability of permittee.

Any permittee or other person who in any manner damages, breaks or interrupts the use of or the service by any other utility shall be liable to said other utility for all cost of repair, replacement or damage from the interruption or use of service by said other utility. (Prior code 12.04.080)

Secs. 11-29—11-40. Reserved.

ARTICLE III

Building Numbering System

Sec. 11-41. Owner's responsibility.

It is made the duty of all owners and occupants of houses and buildings situated in the corporate limits of the Town to number the same within thirty (30) days after being notified so to do by the Town Clerk in the manner hereafter directed, and by securely fastening a metal plate or sign bearing figures necessary to indicate the proper number of such house or building, over the front door thereof. (Prior code 12.12.010)

Sec. 11-42. Determination of number.

The proper number to be affixed to each of such houses and buildings shall be ascertained and determined in the following manner:

(1) By beginning at that certain street in the Town known as Main Street, and numbering all houses and buildings fronting upon streets running at right angles therewith in accordance with what is known as the decimal system, and by regularly increasing one (1) number, according to the distance from Main Street, allowing one (1) number to each twelve and one-half (12½) feet of space of each block, exclusive of alleys.

(2) The houses and buildings situated upon Main Street, and upon all other streets running parallel or nearly parallel therewith, shall be numbered by the same method and same manner, using that certain street in the Town known as Highway No. 24 as the base or starting point.

(3) The number in each block shall begin with 101 and 102, 201 and 202, 301 and 302, etc., according to whether the same is the first, second or third, etc., block from Main Street; and on all streets or avenues running northerly and southerly even numbers shall be placed on the west side, and on all streets and avenues running easterly and westerly the even numbers shall be placed on the north side, the odd numbers alternating in each case shall be placed on the respective east or south side of the street opposite to that on which the even numbers are to be placed as aforesaid.

(4) All stairways in business blocks shall be numbered with half numbers, such as 150½, 250½, etc.

(5) The number which, by proper computation and measurements, made in accordance with the foregoing provisions, falls to any house or building in the Town, shall thenceforth be and remain the proper and official number thereof. (Prior code 12.12.020)

Sec. 11-43. Visibility of numbers.

The figures used to indicate the number of each house or building in the Town, and to be placed upon the metal plates or signs mentioned in Section 11-41, shall be each at least three (3) inches in height and so inscribed and placed so as to be plainly visible from the street upon which the house or building bearing the number is situated. (Prior code 12.12.030)

Sec. 11-44. Appointment.

The Board of Trustees shall, by resolution, appoint a suitable person or persons to make the necessary measurements and computations to assign each house or building its proper number or numbers. (Prior code 12.12.040)

Sec. 11-45. Application.

Any and all houses and buildings which may be hereafter constructed in the Town shall be subject to the provisions of this Article and numbered in the manner herein prescribed. (Prior code 12.12.060)

Sec. 11-46. Exceptions; Esgar and Collegiate Heights Additions.

Nothing in this Article shall affect or alter the house numbering system presently in use in the Esgar and Collegiate Heights Additions to the Town. (Prior code 12.12.070)

Secs. 11-47—11-60. Reserved.

ARTICLE IV

Street and Alley Vacation Procedures

Sec. 11-61. Request for vacation.

A request for vacation of any public street or other public way shall be made to the Town Administrator in writing, shall be accompanied by a nonrefundable application fee, and shall include the legal description of the property sought to be vacated, the facts justifying or necessitating such request, the name of the person making the request, and the name and address of all persons who own real property immediately adjacent to the public way sought to be vacated. Additionally, the applicant shall provide a current improvement survey of the public way sought to be vacated, which survey shall have been prepared by a surveyor licensed in the State. (Prior code 12.24.010; Ord. 6-1998, §9)

Sec. 11-62. Public hearing and notice.

Upon receipt of a request for vacation, the Board of Trustees shall cause a public hearing to be held upon such request. Notice of such hearing shall be published twice in a newspaper of general circulation in the Town, the first publication being at least fifteen (15) days prior to such hearing and the second publication being at least eight (8) days prior to such hearing. In addition, the Town Clerk shall mail notice of such hearing to all owners of property adjacent to the public way sought to be vacated as shown in the request for vacation, and to all public utility companies providing service within the Town. (Prior code 12.24.020)

Sec. 11-63. Vacation only granted if in public interest.

Following the public hearing, the Board of Trustees shall either allow or deny the request for vacation. In making such decision, the Board of Trustees shall determine whether the requested vacation would be in the public interest. Any action of the Board of Trustees vacating a public way within the Town shall be done by ordinance as required by Section 43-2-303(1)(a), C.R.S. (Prior code 12.24.030)

Sec. 11-64. Reserved.

Sec. 11-65. Reservation of easements and rights-of-way.

Any ordinance vacating a public way shall reserve rights-of-way or easements for the continued use of existing sewer, gas, water or similar pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances. (Prior code 12.24.050)

Sec. 11-66. Further conditions and restrictions.

Nothing contained in this Article shall in any way limit or restrict the power of the Board of Trustees to impose further conditions, restrictions or requirements upon a request for vacation or upon such vacation if so granted. (Prior code 12.24.060)

Secs. 11-67—11-80. Reserved.

ARTICLE V

Trees

Sec. 11-81. Purpose.

It is the purpose of this Article to promote the public health, safety and welfare and enhance the natural environment by regulating the planting and maintenance of trees within public rights-of-way and on public property, and by controlling the introduction, propagation and/or maintenance of nuisance, dead or diseased trees on private property. (Prior code 12.20.010; Ord. 4-2002 §1)

Sec. 11-82. Definitions.

As used in this Article, the following words shall have the following meanings:

Planting guide means the *Town of Buena Vista Planting Guide* adopted and as may be amended from time to time by the Board of Trustees.

Tree includes trees, perennial plants and shrubs of all kinds.

Tree Board means the citizen advisory board charged by the Board of Trustees to study and recommend plans and guidelines for the care, preservation and planting of trees. (Prior code 12.20.020; Ord. 4-2002 §1)

Sec. 11-83. Permit required to plant trees on public property; issuance.

(a) It is unlawful for any person to plant, prune, remove, destroy or cause to be planted, pruned, removed or destroyed any tree in or upon the public right-of-way of any street, alley, park, sidewalk or other public place within the Town without having first obtained a permit therefor from the Town Administrator.

(b) A permit may be issued by the Town Administrator under Subsection (a) above only upon proof satisfactory to the Town Administrator that the proposed activity will improve the appearance of the street or other public place and is in the best interest of the Town and its inhabitants, and that the proposed activity will be done in a safe and prudent manner and in compliance with this Article. The Town Administrator may impose such conditions upon the permit as may be reasonable under the circumstances. (Prior code 12.20.030)

Sec. 11-84. Specifications on planting new trees – adherence to Planting Guide.

All trees and other plants planted in or upon any street, alley, sidewalk, park or other public right-of-way or public place within the Town, and such trees and plants required to be planted on public or private land as a condition of any zoning, subdivision or other land development or building approval or permit shall be planted and maintained in accordance with the provisions of this Article and the *Town of Buena Vista Planting Guide*, which guide shall be adhered to and enforced as if set forth in full in this Section. (Prior code 12.20.040; Ord. 4-2002 §1)

Sec. 11-85. Town authority over trees on, in or protruding into public rights-of-way or property.

The Town shall have the authority to plant, prune, spray, preserve and remove trees located within or projecting into the public right-of-way of any street or in any alley, park or other public place within the Town, as may be determined by the Town from time to time to be necessary for the purposes of rendering the streets and other public places safe and convenient; to carry out a plan or system of street improvement or beautification; or to prevent roots from closing sewers and storm drains. The Town Administrator may require the removal, or cause to be removed, any tree or part thereof located within or projecting into the public right-of-way or in any alley, park or other public place which is deemed to present or create an unsafe or dangerous condition, or which presents a danger or threat to underground or overhead utility transmission lines or other public improvements; which is infected by any injurious fungus, disease, insect or pest; or which was planted and/or is being maintained in violation of the *Town of Buena Vista Planting Guide*. (Prior code 12.20.050; Ord. 4-2002 §1)

Sec. 11-86. Pruning of trees on public street or alley.

Every person owning a tree located within or projecting into any public street, right-of-way or alley shall prune the branches of such tree so that the branches of such tree shall not obstruct the light from any street light and shall not obstruct the visibility from any street intersection; and so that there shall be a clear space of at least twelve (12) feet between the surface of the street, right-of-way or alley and the lowest branch of such tree. (Prior code 12.20.060)

Sec. 11-87. Removal of dead or diseased trees on private property.

The Town Administrator shall have the power to provide for and compel the removal of any dead or diseased trees located on private property when such tree presents an immediate or potential threat to public or private health or safety, or to public or private property, or harbors insects or diseases which constitute an actual or potential threat to other trees within the Town. Except in cases of emergency wherein the immediate removal of all or part of a tree is necessary to avert foreseeable immediate injury to persons or property, the Town Administrator shall provide the tree owner with a written order to remove a tree under this Section within sixty (60) days from the date of the notice, or within such shorter time as the Town Administrator may deem necessary. If the tree owner fails or refuses to remove the tree within the time specified in the written notice, the Town may proceed to remove the tree, and the whole cost thereof, including collection expenses, may be assessed against the lot or tracts from which the tree was removed. The assessment shall be an automatic lien against such lot or tract until paid and shall have priority over all other liens except general taxes and prior special assessments. Further, in case such assessment is not paid within ninety (90) days after becoming due, it may be certified by the Town Clerk to the County Treasurer who shall collect the assessment, together with a ten percent (10%) penalty for cost of collection, in the same manner delinquent taxes are collected. (Prior code 12.20.070; Ord. 4-2002 §1)

Secs. 11-88—11-110. Reserved.

ARTICLE VI

Use of Public Places

Sec. 11-111. Definitions.

As used in this Article, unless the context clearly requires a different meaning, the following words shall be defined as follows:

Public park or recreation area means a park, recreation area or other open space owned, leased or under the control of the Town or other public entity and shall include the Town's rodeo grounds, softball fields, tennis courts and trails but shall not include the Town's airport.

Public property means any real property, public right-of-way, public park, recreation area or other area owned, leased or under the control of the Town or other public entity.

Public right-of-way means any street, sidewalk, alleyway or other right-of-way owned by the Town, but this term shall not include U.S. Highway 24.

Special event means an organized procession or assemblage of two hundred (200) or more people requiring traffic control, the exclusive use of all or a portion of a public right-of-way, public park or recreation area or other Town facility, or creating a public safety hazard. Examples of special events include, but are not limited to, walkathons, runs, marathons, trail rides, bicycle races, fairs, celebrations, rodeos, demonstrations, parades, aviation events and other similar activities.

Town Administrator means the Town Administrator of the Town of Buena Vista. (Ord. 3 §1, 2010; Ord. 6 §1, 2011)

Sec. 11-112. Closure of public rights-of-way; payment of costs; insurance.

The Board of Trustees may authorize the partial or complete closure of designated portions of a public right-of-way if:

(1) A written application is submitted to the Town Administrator, containing such information as the Town Administrator deems necessary, and the application is approved by the Board of Trustees after recommendation by the Town Administrator.

(2) The applicant pays to the Town, at the time he or she submits the application, such application fee as may be established by the Board of Trustees, and the applicant agrees to pay upon request the actual costs to the Town in providing any services required in connection with the closure over and above normal municipal services. Such costs shall include, without limitation, any regular or overtime salaries, equipment and fuel.

(3) The applicant agrees to pay for and provide liability insurance in such amount and for such coverage as may be required by the Board of Trustees sufficient to protect the Town from any liability for any injuries or damages which may arise out of the closure or the Town's assistance in ensuring the safe conduct of the closure.

(4) The closure is implemented in a manner that will cause the least inconvenience to the public. (Ord. 3 §1, 2010)

Sec. 11-113. Use of public parks and recreation areas.

Town-owned public parks and recreation areas may be reserved and used by groups, associations or similar organizations, by permit issued by the Town Administrator upon compliance with the following terms and conditions:

(1) Written application for a permit shall be submitted to the Town Administrator containing such information as the Town Administrator deems necessary to evaluate the proposed use.

(2) The applicant shall pay an application fee and agrees to pay upon request the actual costs to the Town in providing any additional municipal services as may be required in connection with the use. Additional services shall include any regular or overtime salaries of Town personnel, equipment usage and fuel.

(3) The applicant agrees to pay for and provide proof of liability insurance in an amount and for such coverage as may be required by the Town Administrator to protect the Town from any liability for any injuries or damages of any kind which may arise out of the use.

(4) The use shall be conducted in a manner that creates the least amount of disturbance to those persons residing near the park or recreation area and minimizes damage to public property. The applicant shall compensate the Town for all damage done to public property during the use. (Ord. 3 §1, 2010)

Sec. 11-114. Swimming or wading in public park waters.

It is unlawful for any person to enter, swim or wade in any lake, stream, pond, irrigation ditch, reservoir or other body of water in a public park or recreation area unless the lake, stream, pond or other body of water has been designated by the Town Administrator as an area specifically set aside for swimming or wading. The Town Administrator may designate areas where persons may enter the bodies of water whenever he or she finds that recreational interests may be served without constituting a hazard to public safety, welfare, health and sanitation. This Section shall not apply to persons wading for the purpose of fishing or launching a boat or to any rescue or officially sanctioned demonstration operations. (Ord. 3 §1, 2010)

Sec. 11-115. Motor-powered watercraft.

(a) It is unlawful to bring or operate any motor-powered watercraft upon any waterway or body of water within the Town; provided, however, that this Section shall not apply to any rescue or officially sanctioned demonstration operations.

(b) Each occupant of a non-motor-powered watercraft shall wear a Coast Guard approved life jacket whenever the watercraft is upon any waterway or body of water within the Town. (Ord. 3 §1, 2010)

Sec. 11-116. Hours; extensions; exceptions.

Public parks and recreation areas shall be open daily to the public from 5:00 a.m. until 11:00 p.m. Only employees of the Town or the authority with jurisdiction over the public park or recreation area acting in the scope of their employment may remain at any other time; provided, however, that:

(1) The Town or authority having jurisdiction over such public park or recreation area may, by permit or authorization first had or obtained, or by regulation duly posted in the area affected, extend to a later hour the nighttime closing hour with respect to particular recreational activities in such parks, parkways or areas; and

(2) Nothing contained in this Article shall prevent or make unlawful the conduct of or attendance at a nighttime athletic event or activity in areas set aside and lighted for such events or activities by or with the permission of the authority having jurisdiction of such public park or recreation area. (Ord. 3 §1, 2010)

Sec. 11-117. Prohibition against dog excrement on public property.

It shall be unlawful for any dog owner to fail to remove and clean up any defecation or excrement deposited by a dog on any public property, including any public park, recreation area or public right-of-way. For the purpose of this Section, the terms *dog* and *dog owner* shall have the meaning described in Section 7-122 of this Code. (Ord. 6 §2, 2011)

Secs. 11-118—11-119. Reserved.

ARTICLE VII

Special Events in Public Places

Sec. 11-120. Definitions.

For purposes of this Article, terms shall have the same meaning as set forth in Section 11-111 of Article VI of this Chapter. (Ord. 3 §2, 2010)

Sec. 11-121. Permit required.

Any person desiring to conduct a special event in the Town shall first obtain a permit from the Town Administrator. If a public right-of-way closure or use of a public park or recreation area is desired, the requirements of Sections 11-112 or 11-113 shall also apply, respectively. (Ord. 3, §2, 2010)

Sec. 11-122. Permit application.

(a) Any person desiring to sponsor or conduct a special event shall apply for a permit by filing a verified application with the Town Administrator.

(b) At a minimum, the application shall include the following information:

- (1) The applicant's name, address and phone number;
- (2) The date and time of the event, including the estimated set-up period, the start time, the end time and the estimated break-down and cleanup period;
- (3) A map showing the proposed location of the event, including a detailed map of the route, if applicable;
- (4) The nature of the event;
- (5) The estimated number of participants and animals, if any;
- (6) The estimated number of vehicles;
- (7) A clean-up plan;
- (8) A list of any previous event permits issued by the Town;
- (9) A statement as to whether the applicant has ever applied for and been denied, or had revoked, a parade, demonstration or similar permit by the Town or any other jurisdiction and the grounds therefor;
- (10) A description of any planned amplified noise;
- (11) A statement as to whether the event will involve hazardous, combustible or flammable materials and, if so, the safeguards planned; and
- (12) Any other information requested by the Town Administrator relevant to either the criteria set forth in Section 11-123 or the possible conditions that may be imposed pursuant to Section 11-125 that will aid the Town Administrator in deciding whether to issue the event permit and under what conditions.

(c) Applications shall be submitted not less than fourteen (14) days nor more than eighteen (18) months before the event. The Town Administrator shall, upon a showing of good cause, consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain necessary police services for the event. Good cause may be demonstrated by a showing that the circumstance that gave rise to the application did not reasonably allow the applicant to file within the time prescribed. If the Town Administrator refuses to consider a late application, the Town Administrator shall inform the applicant in writing of the reasons therefor and of the applicant's right of appeal.

(d) Each application shall be accompanied by a fee as set by the Board of Trustees, which fee shall defray the costs of processing the application. (Ord. 3 §2, 2010; Ord. 2 §1, 2011)

Sec. 11-123. Criteria for denial.

(a) The Town Administrator shall approve an application and issue an event permit unless the Town Administrator determines, upon consideration of the application and other pertinent information, that:

(1) Information contained in the application or supplemental information obtained from the applicant is found to be false in any material detail;

(2) The applicant has failed to complete the application after having been notified of any additional information or documents required;

(3) Another event permit has already been issued, or an application has been received prior in time, to hold another event on the same date and time, or so close in time and place as to cause undue traffic congestion, or as to burden the Town's ability to meet the needs of police, fire or other emergency services to the remainder of the Town;

(4) The time, route or size of the event will substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will disrupt the use of a public right-of-way at a time when it is usually subject to traffic congestion;

(5) The size, nature or location of the event will present a substantial risk to the health or safety of the public or participants in the event or other persons;

(6) The size of the event will require diversion of so great a number of police officers to ensure that participants stay within the boundaries or route of the event, or to protect participants in the event, as to prevent normal protection to the rest of the Town; provided that nothing herein authorizes denial of a permit because of the need to protect participants from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of participants with the number of police officers available to police the event;

(7) The location of the event will substantially interfere with any construction or maintenance work scheduled to take place on or near a public right-of-way or with any previously issued public right-of-way permit;

(8) The event, as described in the application, would violate any applicable law;

(9) The applicant has failed to pay costs, fees or deposits for any previous event permit; or

(10) The applicant has failed to abide by the terms or conditions of any previous event permit.

(b) When the grounds for denial of an application can be corrected by altering the date, time, duration, route or location of the event, the Town Administrator shall, instead of denying the application, conditionally approve the application upon the applicant's acceptance of appropriate corrective conditions or by making other reasonable modifications to the event. (Ord. 3 §2, 2010)

Sec. 11-124. Issuance.

Within ten (10) days of receipt of a complete application for an event permit, the Town Administrator shall consider the applicable criteria and approve, conditionally approve or deny the application. If the application is denied, the Town Administrator shall inform the applicant in writing of the grounds for denial and the applicant's right of appeal. If the application is approved, the Town Administrator shall issue the event permit, including any conditions. (Ord. 3 §2, 2010; Ord. 2 §1, 2011)

Sec. 11-125. Conditions.

The Town Administrator may impose reasonable conditions on any event permit necessary to protect the safety of persons and property and the control of traffic, including but not limited to the following:

- (1) Alteration of the date, time, duration, frequency, route or location of the event;
- (2) Conditions concerning the area of assembly and disbanding of parades or other events occurring along a route;
- (3) Conditions concerning accommodation of available parking, pedestrian or vehicular traffic, including restricting the event to only a portion of a public right-of-way;
- (4) Requirements for the use of traffic cones, barricades or other traffic control devices to be provided, placed and removed by the permittee at its expense;
- (5) Requirements for provision of emergency access and first aid or sanitary facilities;
- (6) Requirements for arrangement of supplemental fire protection or law enforcement personnel to be present at the event at the permittee's expense;
- (7) Requirements for use of event monitors and providing notice of permit conditions to event participants;
- (8) Restrictions on the number and type of vehicles, animals or structures at the event and inspection and prior approval of floats, structures and decorated vehicles for fire safety;
- (9) Requirements for use of trash receptacles, cleanup and restoration of property;
- (10) Restrictions on use of amplified sound;
- (11) A requirement that notice be provided to the property owners of property adjacent to any affected public property;
- (12) Compliance with any applicable law and obtaining any other legally required permits or licenses; and
- (13) Designation of a contact person with decision-making authority who will be continuously available to law enforcement personnel and present at the event. (Ord. 3 §2, 2010)

Sec. 11-126. Insurance.

(a) In addition to any other condition allowed by Section 11-125, the Town Administrator may require the applicant to possess liability insurance to protect against loss from liability imposed by law for damages for bodily injury or property damage arising from the event. The Town Administrator shall determine whether to require such insurance and the amount of insurance that shall be required, based upon the considerations routinely taken into account by the Town in evaluating loss exposures, including, without limitation, whether the event poses a substantial risk of

damage or injury due to the anticipated number of participants, the nature of the event and activities involved and the physical characteristics of the proposed site or route. Such insurance shall name the Town and its officers, employees and agents as additional insureds.

(b) A copy of the policy or a certificate of insurance along with all necessary endorsements shall be filed with the Town Administrator no less than five (5) days before the event or within forty (48) hours after approval by the Town, whichever is later. (Ord. 3 §2, 2010)

Sec. 11-127. Duties of permittee.

(a) The permittee shall comply with all terms and conditions of the event permit.

(b) The permittee shall ensure that the person leading or in charge of the event is familiar with every provision of the event permit and carries the event permit on his or her person for the duration of the event.

(c) Immediately following the completion of the event, the permittee shall ensure that the area used for the event is cleaned and restored to the same condition as existed prior to the event. If the property used for the event has not been properly cleaned or restored, the permittee shall be required to reimburse the Town for any costs incurred by the Town to clean or restore the area. (Ord. 3 §2, 2010)

Sec. 11-128. Revocation.

(a) The Town Administrator may, at any time prior to an event, revoke or terminate a permit that has been issued for the event if conditions change so that the application could have been denied in the first instance.

(b) The Town Administrator may revoke an event permit during the course of the event if continuation of the event presents a clear and present danger to the participants or the public health, safety or welfare.

(c) The Town Administrator may revoke the permit and terminate the event during the course of the event for noncompliance with any term or condition of the event permit. (Ord. 3 §2, 2010)

Sec. 11-129. Appeal.

(a) Any decision of the Town Administrator under this Article may be appealed to the Board of Trustees by filing a written notice of appeal, setting forth the grounds for appeal, within five (5) days after the decision.

(b) The Board of Trustees shall review the appeal and issue a written decision no later than two (2) regular meetings after the filing of the appeal. The applicant and the Town Administrator may present written evidence or argument to assist the review. The Board of Trustees' decision shall be final, subject only to judicial review.

(c) If an appeal is properly filed, but a decision by the Board of Trustees would not be due prior to twenty-four (24) hours before the start of the event, and the Board of Trustees has not notified the applicant that the Board of Trustees will provide an expedited decision prior to twenty-four (24) hours

before the start of the event, the applicant may seek judicial review with no further administrative review. (Ord. 3 §2, 2010)

ARTICLE VIII

Cemetery Rules and Regulations

Sec. 11-130. Designation and definitions.

(a) Designation: The property and all additions that may hereafter be made thereto, now known as the Mt. Olivet Cemetery (hereafter referred to as "the Cemetery"), is designated the Town cemetery of Buena Vista and is set apart and shall be maintained forever for the burial of deceased persons. Nothing in this Article shall be deemed to supersede any covenant or restriction placed on a cemetery plot, including those covenants placed on Blocks 45 through 87 by the Town of Buena Vista Ordinance 7, Series 1990.

(b) Definitions:

Double burials means the stacking or placement of one (1) interment atop or above another.

Immediate family means parents, siblings, spouse and children only.

Indigent means lacking sufficient assets, credit or other means to provide for payment of the burial fee established by the Town. The financial means of the deceased's immediate family shall be taken into consideration when determining whether a deceased individual is indigent.

Occupied burial space means:

- a. An unmarked or temporary burial space which contains or shows evidence of containing any interred remains; and
- b. A burial space that has a permanent marker.

Plot means a standard five-foot-wide by ten-foot-long space for a casket.

Resident means:

- a. An individual who resided in the Town for five (5) consecutive years immediately prior to death;
- b. An individual who resided in the Town for five (5) consecutive years prior to residing outside the Town for the specific purpose of receiving care for health problems leading to death;
- c. A member of the immediate family of a resident;
- d. A member of the immediate family of an individual already buried in the Cemetery; or
- e. A person designated as a resident by resolution of the Board of Trustees.

Residing means the act of living within the Town limits a minimum of nine (9) months of a twelve-month period as evidenced by a minimum of two (2) of the following:

- a. Payment of Town water and sewer billings;
 - b. Records of the Colorado Motor Vehicle Department (driver's license);
 - c. Records of the Chaffee County Clerk and Recorder (license plates) or voter registration;
- or
- d. A copy of a current lease.

Town means the Town of Buena Vista, a municipal corporation in the State of Colorado, being the owner and administrator of the Cemetery.

Unoccupied burial space means a burial space which does not contain or is not known to contain any interred remains. (Ord. 3 §1, 2011; Ord. 10-2012 §1)

Sec. 11-131. Cemetery supervision.

The Town Administrator shall designate and supervise an appropriate person to maintain the grounds of the Cemetery in good condition, attend to the trimming of vegetation, see to the enforcement of rules of this Article as they apply to the care and upkeep of the Cemetery and make such improvements as the Board of Trustees may direct. (Ord. 3 §1, 2011)

Sec. 11-132. General maintenance fee.

From the date of adoption of this Article, burial rights in all Cemetery plots must be granted via an interment agreement by the procedures outlined herein. Revenue received by the Town from the granting of interment rights shall be placed in the Town General Fund and used for the historic preservation, general care and maintenance of the Cemetery. (Ord. 3 §1, 2011)

Sec. 11-133. Granting and recording of burial rights.

(a) All applications for burial plots in the Cemetery shall be made at the office of the Town Clerk, who is hereby authorized to grant interment rights for such plots on behalf of the Town. The Town Clerk shall exhibit the plat of the Cemetery plots and a schedule of prices of plots therein. The applicant shall submit the following information:

- (1) Name, most recent address and phone number of the person (or persons, in the case of multiple cremain interments) to be named on the interment agreement as owner of the burial rights;
- (2) Name, address and phone number of the representative, if the person to be named on the interment agreement is being so represented; and
- (3) Plot identification.

(b) Upon presentation to the Town Clerk of the above-listed information and any payment due for the sale of a plot to any person, the Town Clerk shall cause an interment agreement to be executed

to the named grantee of such plot, containing a description of the plot and signed by the Town Clerk. Burial rights for a plot shall only be granted to one (1) person. The burial rights transferred shall be limited to the right of interment. All other property rights remain with the Town.

(c) Burial rights shall be sold by the Town Clerk for cash or certified funds payments only under the regulations and conditions as provided by the Board of Trustees and for prices as adopted by resolution in the Town's fee schedule.

(1) The Town has the right to refuse sale of plots to nonresidents if at any time it is determined that the number of plots are limited and shall be reserved for residents.

(2) For persons proven to be indigent at their time of death, the burial plot fee may be waived by the Town Clerk.

(d) The Town Clerk shall keep an accurate, easily retrievable and secure record of all transactions regarding the Cemetery, showing the names of the grantee and the number of the plot for which burial rights have been granted, in a book or database provided by the Town for that purpose.

(e) Burial rights that are granted prior to the death to a resident shall be honored if the grantee is no longer a resident at the time of death.

(f) Burial rights may only be owned by or granted or conveyed to natural persons. (Ord. 3 §1, 2011; Ord. 10-2012 §§2, 3)

Sec. 11-134. Burial procedures.

(a) No interment or disinterment shall occur within the Cemetery without a permit lawfully issued by the appropriate agency in the location of death.

(b) No burial shall take place until the Town Clerk has received payment in full for the burial plot and an interment agreement has been executed.

(c) The Town Clerk must receive notification at least seventy-two (72) hours before all burials; provided that, if shorter notice must be provided for religious or other reasonable purposes, this advance notification requirement may be waived. The minimum period for such notification shall not include Saturday, Sunday or Town holidays, and the notice period shall begin at 8:00 a.m. on any workday.

(d) After notifying the Town Clerk and payment of required fees, the representative of the deceased shall set a burial time and submit an application for burial.

(e) A minimum of two (2) hours shall be allowed between two (2) separate burials on the same day.

(f) The Town will provide no services related to the placement of the remains, including placing of the monument or landscaping.

(g) Notice upon application for burial shall be given to the Town Clerk of the intention to bury the remains of any person who dies of a contagious disease, so the proper time can be appointed and

suitable arrangements made for the safety of the public health and the Cemetery employees. (Ord. 3 §1, 2011)

Sec. 11-135. Fees for interments and disinterments.

The fee as set by resolution shall be collected for disinterments of caskets from the Cemetery and for disinterment of cremains. These fees are for administrative tasks; the Town will not participate in the process of disinterment except to ensure that proper approvals and documentation are in place. (Ord. 3 §1, 2011)

Sec. 11-136. Transfer of burial rights.

(a) No burial rights for a Cemetery plot or plots shall be transferred by a grantee as named on a duly executed interment agreement without such transfer first having been recorded with the Town Clerk and a fee having been paid in full. The Town may, at its sole discretion, refuse to recognize and honor any such transfer unless and until it is first recorded with the Town Clerk and the fee paid. An applicant for transfer of an interment agreement must submit a notarized document authorizing such transfer by the existing grantee or, if the grantee is deceased, evidence of death, evidence of interment elsewhere and documentation that the applicant is authorized to receive the transfer. No utilization of a Cemetery plot shall be made until compliance with this Section has been effected.

(b) Any person or the legally authorized representative of a deceased person wishing to resell burial rights for a Cemetery plot to the Town may do so, in which case the Town shall pay no more than the price which the Town charged at the time of issuance of the interment agreement, subject to availability of funds for such repurchase.

(c) Nothing in this Section shall be construed to permit the sale or conveyance of any Cemetery plot which has been used for interment. (Ord. 3 §1, 2011)

Sec. 11-137. Caskets and monuments.

(a) The top of all crypts and vaults must be a minimum of three (3) feet below ground level.

(b) No mausoleums shall be permitted.

(c) All tombstones and grave markers ("monuments") placed on plots in the Cemetery must meet the following requirements:

(1) Monuments shall be made of stone, synthetic stone, concrete or other industry-standard material. Brass plaques may be used.

(2) Monuments shall contain at minimum the name of the deceased, the date of birth and the date of death.

(3) Monuments shall be permanently placed in the ground. Monuments are limited to one (1) upright and one (1) flat marker per casket and cremain per burial plot (which allows for up to nine [9] flat markers if a burial plot has one [1] casket and eight [8] cremains). Veteran markers are exempt from this limit. (Ord. 3 §1, 2011; Ord. 10-2012 §4)

Sec. 11-138. Miscellaneous burial regulations.

- (a) Only one (1) casket with a maximum of eight (8) cremains above the casket is permitted per plot.
- (b) No double burial of caskets is permitted.
- (c) Only burials in strict compliance with these rules are permitted.
- (d) If burial rights for a plot are purchased, but not used after a period of one hundred (100) years, the burial rights shall terminate. (Ord. 3 §1, 2011)

Sec. 11-139. Disinterments and opening of graves.

No disinterment shall be allowed without permission of the State of Colorado in accordance with its statutes and regulations and without the permission of the Board of Trustees and the owner of the burial rights for the plot or owner's descendants. If the consent of the owner cannot be obtained, an order of the Court in accordance with Colorado law is required. No disinterment shall be made except by qualified contractors. Disinterment shall be allowed only upon payment in full of the fees outlined in the Town fee schedule. The time of disinterment will be designated by the Town Clerk. No liability shall accrue to the Town for damages incurred during the disinterment, including but not limited to damage to liners, caskets or monuments. (Ord. 3 §1, 2011)

Sec. 11-140. Maintenance and care of plots and graves.

- (a) The Town Clerk shall manage the operation of the Cemetery in coordination with the Town Administrator.
- (b) The Cemetery shall be operated in such a manner so as to procure a natural and pleasant effect, to protect and preserve the historic character and to ensure proper drainage of the grounds and the grade of all plots and graves in the Cemetery.
- (c) All fences, railings, concrete blocks or other enclosures around plots and graves, including trellises and headboards of every type and description, shall be submitted for approval to the Town Clerk. Any fences, railings, curbs or other enclosures around plots and graves shall be maintained by the heirs of the deceased. Concrete footers are prohibited. If such constructions are not maintained, fees for the care of the same may be assessed to the heirs of the deceased. If no responsible party can be contacted and be responsive, the Town may remove the constructions. Such constructions deemed historically valuable may be maintained by the Town at its sole discretion.
- (d) All foundations and monuments placed in the Cemetery shall be set by a licensed memorial company or grave headstone company.
- (e) The planting of trees and shrubs on a gravesite as permanent landscaping shall be submitted for approval by the Town Clerk.
- (f) Chairs, benches, settees, furniture, unauthorized grave covers, Astro Turf or toys are prohibited; with the exception that one (1) flat stone pedestal bench per plot of no greater than thirty-six (36) inches in length by eighteen (18) inches in height by sixteen (16) inches deep shall be

permitted, provided that such bench is placed within the boundaries of the plot. Any articles that are not in keeping with the purpose of this Article are prohibited. Paper boxes and other unsightly articles shall not be placed in the Cemetery. (Ord. 3 §1, 2011; Ord. 10-2012 §5)

Sec. 11-141. Obtaining of plot location.

The location and identity of plots in the Cemetery may be obtained from the Town Clerk at any time during regular Town business hours. (Ord. 3 §1, 2011)

Sec. 11-142. Operation of vehicles.

Riding or driving faster than five (5) mph is prohibited in the Cemetery and only allowed in designated areas. No driving or riding shall be allowed on plots, lawns or walks. This Section also applies to bicycles, but not to wheelchairs required for handicapped access. No other means of transportation is allowed. All persons driving or riding in the Cemetery shall be held responsible for any damage done by them, their vehicles or any animals in their charge. Vehicles shall not be turned around in any avenues, but shall be driven forward following roadways. Parking shall be in designated areas only. (Ord. 3 §1, 2011)

Sec. 11-143. Fraternal society plots.

No fraternal society shall establish a new group of plots except by applying for special permission from the Board of Trustees. Fraternal society plots (including fences, gates, monuments and vegetation) shall be maintained and cared for by the society. If a society demonstrates neglect of its plot, an annual fee shall be levied for the care of said plot. A fraternal society may request relief from the maintenance requirement from the Town Administrator. (Ord. 3 §1, 2011)

Sec. 11-144. Animal control.

Persons bringing animals to the Cemetery shall maintain control over them at all times. Owners are prohibited from permitting their animals to defile any gravesite. (Ord. 3 §1, 2011)

Sec. 11-145. Visiting hours.

Cemetery visiting hours shall be from dawn to dusk. No one shall be allowed in the Cemetery except during visiting hours. (Ord. 3 §1, 2011)

Sec. 11-146. Enforcement and surveillance.

The Police Department shall have the authority to enforce all rules and regulations pertaining to the Cemetery and the authority to enforce the law and apprehend lawbreakers in the Cemetery. (Ord. 3 §1, 2011)

Sec. 11-147. Presumed rights and certificates of ownership.

The Town recognizes that there are persons who have undocumented presumptions of rights to a burial plot in the Cemetery, whether they are residents or nonresidents. The Town intends to identify those parties to the best of their ability as time goes by, adjudicate the specific circumstances and

establish any rights approved by the Town Clerk by the issuance of an interment agreement. (Ord. 3 §1, 2011)

Sec. 11-148. Disclaimer on sale of plots.

Since the Town has not controlled burials in the Cemetery from its inception, and since no consistent and complete records exist as to persons buried and at what location, all grants of burial rights are contingent upon the excavation of the burial site. In those cases where a previous burial is unearthed, the owner of the plot will have the option of selling it back to the Town or locating another plot. (Ord. 3 §1, 2011)

Secs. 11-149—11-160. Reserved.