THE MUNICIPAL CODE

OF THE

TOWN OF LIMON, COLORADO

County of Lincoln

State of Colorado

Published by

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a Colorado municipal corporation

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OFFICIALS

OF THE

TOWN OF LIMON

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2010

DEL BEATTIE	Mayor
JIM ANDERSEN	Trustee
LINDA HAWTHORNE	Trustee
JACK HENDRICKS	Trustee
MIKE KELLY	Trustee
GREG KING	Trustee
PAUL METCALF	Trustee
DAVE STONE	Town Manager
CHRIS SNYDER	Clerk/Treasurer
STAN KIMBLE	Town Attorney

CERTIFICATION

TOWN OF LIMON

Offices of the Mayor and Town Clerk

We, DEL BEATTIE, Mayor of the Town of Limon, and CHRIS SNYDER, Town Clerk of the Town of Limon, hereby certify that the chapters contained in this volume are based upon the original ordinances of the Board of Trustees of the Town of Limon, Colorado and that said ordinances, as revised and codified, renumbered as to sections and rearranged into chapters, constitute a true copy of *The Municipal Code of the Town of Limon, Colorado*, as adopted by Ordinance No. 371 of the Board of Trustees on December 2, 1993, as amended.

Given under our hands and the Seal of the Town of Limon, County of Lincoln, State of Colorado, this _____ day of _____, 2010, at Limon, Colorado.

_____ _____

Del Beattie Chris Snyder, Town Clerk

(S E A L)

THE MUNICIPAL CODE

OF THE

TOWN OF LIMON, COLORADO

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PREFACE

The Town of Limon has, like other Colorado municipalities, passed through the legislative history that characterizes many communities in their early stages. While only a few simple laws were necessary at the time of the establishment of the town, subsequent growth of the community, together with the complexity of modern life, has created the need for more and detailed legislation for the proper function and government of the Town. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up to date. It was with thoughts such as these in mind that the Mayor and Board of Trustees ordered the following recodification of the Town's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Board of Trustees of the Town of Limon. In accordance with recognized codification procedures, any revisions or amendments made in existing legislation in the course of the codification, upon authorization of the Board of Trustees, are referred to in the ordinance adopting the Code and are adopted thereby.

Reserve Chapters

Space has been provided for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters entitled "(Reserved)."

Grouping of Ordinances and Arrangement of Chapters

The legislation of the town is organized into chapters, the order being the same as was adopted in the original codification of the Limon, Colorado, Municipal Code of 1958. In such chapters, use of section designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the arrangement of material by chapter and sections as a means of identifying specific areas of legislation.

Chapter and Section Histories

Throughout the chapters and sections is located the legislative history of that chapter. This History indicates the specific legislative source from which the chapter or section was derived and the date of adoption. In the case of chapters or sections containing changes derived from more than one item of legislation, the source of each change is indicated in the History.

Index

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation and amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the instruction page which accompanies such supplement.

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100 - GENERAL PROVISIONS AND ADMINISTRATION

110 - Explanatory Material, Penalty, Repeal

111 - Adoption of Municipal Code

HISTORY: 1958 Municipal Code

111.1. Title and Scope.

This code containing seven main chapters shall be known as "**THE MUNICIPAL CODE OF THE TOWN OF LIMON, COLORADO"**, and may be cited by that term or by the term "**MUNICIPAL CODE**" and shall be treated and considered as a new and comprehensive ordinance. This code shall supersede all ordinances heretofore enacted and shall repeal all ordinances, or part of ordinances in conflict with the provisions hereinafter contained.

111.2. Establishing General Rules of Construction.

111.2.1. Construction of Words.

Whenever any word in any section of this code importing the plural number is used, in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this code by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included. The words "person, firm, or corporation" shall be deemed to include any association or organization of any kind. Words in the present shall include the future. The words "this ordinance" shall be held and taken to mean the entire code, including each and every section thereof. The word "town" whenever used in this code shall be held and taken to mean the Town of Limon, Colorado. The words "written" and "in writing" may include printing. Provided, that these rules of construction shall not be applied to any section of this code which contains any express provisions excluding such construction or where the subject matter or content of such section may be repugnant thereto.

111.2.2. Officers and Employees.

Whenever reference is made in this code to a town officer or employee by title only, this shall be construed as though followed by the words "of the Town of Limon, Colorado" and shall be taken to mean the officer or employee of this town having the title mentioned or performing the duties indicated.

111.2.3. No provision of this code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this code for a failure to perform such duty, unless the intention of the Board of Trustees to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

111.2.4. Penalties for Violations.

In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

111.2.4.1. Whenever in this code a minimum but not maximum fine or penalty is imposed, the court may in its discretion may fine the offender any sum exceeding the minimum fine or penalty so imposed but not exceeding the amount of five hundred dollars ($500.00).

111.2.4.2. Whenever in this code the doing of any act or the omission to do any act constitutes a breach of any section or provision of this code, and there shall be no fine or penalty declared for such breach, any person who shall be convicted of any such breach shall be fined not more than five hundred dollars ($500.00) for each offense.

(Amended January 2, 1997 by Ordinance No. 411)

111.3. Repealing Clause.

111.3.1. Repeal of General Ordinances.

All general codes and ordinances of the town passed prior to the passage of this code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal, subject to the saving clauses contained in the following section, from which are excluded the following codes or ordinances which are not hereby repealed; tax levy ordinances, appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances;

ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the town; building ordinances, zoning ordinances, and all special ordinances.

111.3.2. Public Utility Ordinances.

No code or ordinance relating to railroads or railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the passage of this ordinance or by virtue of the preceding section, excepting as this code may contain provision for such matters, in which case this code shall be considered as amending such ordinance or ordinances in respect of such provisions only.

111.3.3. Pending Suits.

111.3.3.1. No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

111.3.3.2. This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

111.3.3.3. Nothing contained in this or the preceding section shall be construed as abating any action now pending under or by virtue of any general ordinance of the town herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the time of the passage of this ordinance.

111.3.4. Severability.

If any provision of this Code or any provision of any rule or regulation lawfully promulgated hereunder or any application of this Code or rule is held invalid or inoperative, such invalidity or inoperativeness shall not affect other provisions or application of the Code or rules or regulations. The Board of Trustees hereby declare that in these regards the provisions of this Code and all rules and regulations promulgated hereunder are severable.

111.4. Publication; Effective Date.

This Code is hereby ordered published in loose leaf notebook form, and the Town Attorney is hereby authorized to effectuate the publication of this Code in book form as aforesaid. In the opinion of the Town Board an emergency exists, and the immediate passage of this ordinance is hereby declared necessary for the preservation of the public peace, health, and safety, therefore this ordinance shall be in full force and effect five (5) days from and after its final passage and publication as provided by law.

111.5. Amendments.

Any additions or amendments to the Code of the Town of Limon, Colorado, when passed in such form as to indicate the intention of the Town Board to make the same a part hereof, shall be deemed to be incorporated in this revision so that reference to the Code shall be understood as including them.

120 – LEGISLATIVE FUNCTIONS

121 - Wards and Precincts

HISTORY: 1958 Municipal Code

121.1. Precincts.

Pursuant to statute, the Town of Limon shall have one voting precinct, the boundary of which shall be all that area within the incorporated said Town of Limon town limits.

122 - Rules and Regulations

HISTORY: 1958 Municipal Code

122.1. Definitions.

The following words and phrases, wherever used in this section **122**, shall be defined as follows:

122.1.1. rules and regulations: the whole or any part of rules and regulations adopted pursuant to statute or ordinance authority, and includes modifications and amendments, but shall not include executive orders or matters relating exclusively to internal management and procedure.

122.1.2. adopting authority: any officer, employee, agent, or agency of the Town of Limon, including boards or commissions or members thereof, authorized by ordinance to make rules and regulations.

122.1.3. Ordinance: any ordinance adopted by the Board of Trustees of the Town of Limon, and shall include any code or compilation of ordinances, or any part thereof, adopted under the authority of the Board of Trustees.

122.2. Authority to Adopt.

No officer, employee, agent, or agency, board or commission or member thereof of the Town of Limon shall have power or authority to adopt any rules or regulations save and except by and under the authority of specific provision of statute or ordinances of the Town of Limon, setting forth the area and scope of rules and regulations permitted and specifying the person authorized to make rules and regulations.

122.3. Submission to Town Attorney; Publication; Filing.

Proposed rules and regulations shall be submitted to the Town Attorney and shall be subject to approval by him for legality. Before becoming effective, such rules and regulations shall be published in accordance with either of the methods set forth herein below, selection of the method to be followed to be made by the adopting authority.

122.3.1. By publishing the rules and regulations in full as finally adopted, once only in a newspaper of general circulation in the Town of Limon.

122.3.2. By filing three copies of the rules and regulations with the Town Clerk and one copy with the Town Attorney, and one copy shall be filed with the person authorized to make the rules and regulations; provided, however, that if this method of publication be adopted, there shall be published by the adopting authority a notice stating that the filings have been made, and setting forth the dates of such filings. Such notice shall be published once in a newspaper of general circulation.

122.4. Public Inspection.

The adopting authority and the Town Clerk shall make such rules and regulations available to public inspection at all reasonable times.

122.5. Repeal.

Notice of repeal of rules and regulations shall be published once in the official newspaper of the Town of Limon.

122.6. Enforcement.

Rules and regulations may not be enforced except upon compliance with the provisions hereof.

122.7. Existing Rules; Regulations.

Nothing in Section **122.6.** shall be interpreted, however, to nullify or limit the effectiveness of valid rules and regulations presently existing, but all such valid rules and regulations shall remain effective and enforceable, and copies thereof shall be filed in the office of the Town Attorney and with the Town Clerk within sixty (60) days of the effective date hereof.

130 – TOWN ADMINISTRATION

131 - Town Officers

HISTORY: 1958 Municipal Code. Amendments noted where applicable.

131.1. Mayor.

At the April 4, 1972, election, and at the regular election every four years thereafter, a mayor shall be elected to serve a four year term and shall serve until his successor is elected and qualified as is provided by statute.

(Amended December 21, 1971 by Ordinance No. 215)

131.1.1. Duties.

The mayor shall be the chief executive officer of the town, shall preside over the meeting of the Board of Trustees, and shall perform such duties as may be required of him by statute, code or ordinance. He shall have supervision over all of the executive officers and employees of the Town, and shall have the power and authority to inspect all books and records pertaining to Town affairs and kept by any officer or employee of the Town at any reasonable time.

131.1.2. Appointment of Officers.

The mayor shall appoint, by and with the advice and consent of the Town Board, all officers of the town whose election or appointment is not otherwise provided for. Any vacancies occurring in an appointive office shall be filled in the same manner.

131.1.3. Designation of Officer's Duties.

Whenever there is a dispute as to the respective duties or powers of any appointed officer of the Town, this dispute shall be settled by the mayor after consultation with the Town Board; and the mayor shall have the power to delegate to any appointed officer any duty which is to be performed when no specific officer has been directed to perform that duty.

131.1.4. Mayor Pro – Tem.

During a temporary absence or disability of the mayor, the Town Board shall elect one of its number to act as mayor pro tem, who during such absence or disability shall possess the powers of mayor, as is provided by statute.

131.1.5. Acting Mayor.

In the event of a vacancy in the Office of Mayor the Town Board may appoint one of its members as acting mayor to serve until the vacancy is filled at a regular or special election as provided by law.

131.1.6. Formal Occasions.

The mayor shall act for and on behalf of the Town on formal occasions and receptions; but in his absence or inability to attend any such function the Town Board may select any other city officer to so act.

131.2. Board of Trustees.

131.2.1. Election – Functions.

The Board of Trustees, consisting of six members shall be elected according to the method provided by statute. At the April 4, 1972 election, six trustees shall be elected. The three candidates for trustee receiving the highest number of votes shall be elected for four-year terms, and the three candidates for trustee receiving the next highest numbers of votes shall be elected for two-year terms. At the next subsequent regular election and at each regular election thereafter, three trustees shall be elected to serve four-year terms.

(Amended December 2, 1971 by Ordinance No. 215)

131.2.1.1. This Board shall be the legislative department of the town government, and shall perform such duties and have such powers as may be delegated by statute to it.

131.2.2. Oath – Salary.

The members of the Board of Trustees shall take the oath of office prescribed by statute, and shall receive such compensation as may be provided by ordinance.

131.2.3. Meetings.

The Town Board shall hold its regular meetings in the Town Hall on the first Thursday of each month at 7 PM. The meeting place of said board shall be at the Town Hall, unless ordered by the Board of Trustees to be held at another place. Special Meetings may be called by the Mayor of the Town or any three Trustees upon requirements defined in the Colorado Revised Statutes. Notice of all regular and special meetings shall comply with requirements defined in the Colorado Revised Statutes.

(Amended February 5, 2009 by Ordinance No. 528.)

131.2.4. Mayor.

The Mayor shall be the presiding officer of all regular and special meetings of the Board of Trustees and at all times when the Board meets as a committee of the whole.

131.2.5. Order of Business.

The order of business of the Board of Trustees of the Town of Limon, Colorado shall be as follows:

1. Roll call.
2. Minutes of the preceding meeting.
3. Communications, resolutions, ordinances and bills.
4. Reports of officers.
5. Reports of committees.
6. Other business.

131.2.6. Rescinded Action.

No vote or action of the Board of Trustees shall be rescinded at any special meeting of the Board unless there be present at such special meeting as many members of the Board as were present at the meeting when such vote or action was taken, as provided by statute.

131.2.7. Resolutions.

Any resolutions submitted to the Board of Trustees shall be reduced to writing before being voted upon on request of any two members of the board.

131.2.8. Addressing Meetings.

No person other than the mayor or a member of the Board shall address that body at any regular or special meeting except upon consent of a majority of the members present.

131.2.9. Suspension of Rules.

The rules of order, other than those prescribed by statute, may be suspended at any time by the consent of a majority of the members present at any meeting.

131.2.10. Robert's Rules of Order.

Robert's Rules of Order shall govern the deliberations of the Board of Trustees except when in conflict with any of the foregoing rules.

131.2.11. Quorum.

A majority of the trustees shall constitute a quorum to do business, but no ordinance shall be passed except upon the favorable vote of a majority of the elected members, as provided by statute.

131.2.12. Committees.

Such standing and special committees as from time to time the Board of Trustees may direct shall be appointed by the mayor.

131.2.13. Disturbing Meetings.

It shall be unlawful for any person to disturb any meeting of the Board of Trustees or of any committee thereof; any person violating the provisions of this section shall be fined not less than ten dollars nor more than one thousand dollars for each offense.

131.2.14. Trustees to Fill Vacancy.

The Board of Trustees shall have power, by appointment, to fill all vacancies in the Board or in any other elected office, and the person so appointed shall hold office until the next regular election and until his successor is elected and qualified. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where a vacancy or vacancies exist in the office of trustee and a successor or successors are to be elected at the next election to fill the unexpired term or terms, the three candidates for trustee receiving the highest number of votes shall be elected to four-year terms and the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term or terms.

(Amended December 2, 1971 by Ordinance no. 215)

131.3. Building Inspector.

(Deleted June 6, 1996 by Ordinance No. 398)

131.4. Plumbing Inspector.

(Deleted June 6, 1996 by Ordinance No. 398)

131.5. Town Superintendent.

(Deleted June 6, 1996 by Ordinance No. 398)

131.6. Town Manager.

(Added June 6, 1996 by Ordinance No. 398; amended on July 11, 2002 by Ordinance No. 477)

131.6.1. Appointment.

The Town Manager shall be appointed by the Board of Trustees.

131.6.2. Statement of Duties.

131.6.2.1. The Town Manager performs highly responsible administrative and managerial work in serving as the chief administrative officer of the Town of Limon. The Town Manager shall be responsible to the Board of Trustees for the efficient administration of the Town's affairs.

131.6.2.2. The Town Manager performs highly responsible work directing and managing the Town's public works operations and systems including, but not limited to: construction, repair and maintenance of streets, operation of water and wastewater systems, storm drainage, cemetery, golf course, swimming pool, parks and recreation, sanitation and airport. The Town Manager shall be responsible to the Board of Trustees for the efficient operation of the Town's public works.

131.6.2.3. The Town Manager will be exempt from Fair Labor Standards and from portions of the Personnel Rules and Regulations pertaining to Probationary Period, Employee Discipline, and Grievance Procedure.

131.6.2.4. The Town Manager shall attend all meetings of the Board of Trustees, shall keep the Board of Trustees informed as to the affairs of the Town, and shall recommend to the Board of Trustees such actions as may be necessary or expedient for the welfare of the Town.

131.6.2.5. The Town Manager shall be charged with the enforcement of all ordinances within the municipality insofar as their enforcement is within the powers of the Town.

131.6.3. Employees.

The Town Manager shall have the following general authority and duties concerning the Administrative Department, the Public Works Department and all other employees of the Town except the Police Department. The Town Manager shall carry out those duties in accordance with the Town's policies and all applicable state and federal laws:

131.6.3.1. The Town Manager shall hire and discharge all employees of the Administrative Department, the Public Works Department and all other employees of the Town except those employed within the Police Department.

131.6.3.2. The Town Manager is empowered and authorized to generally direct the employees stationed in the Administrative Department and the Public Works Department, including but not limited to the Code Enforcement Technician and the Billing Clerk/Receptionist. Further, except for those duties specifically given to the Town Clerk/Treasurer, by state statute, the Town Manager shall generally supervise the Town Clerk/Treasurer as to all administrative duties and functions assigned to the Town Clerk/Treasurer by the Board of Trustees.

131.6.3.3. The Town Manager shall further carry out and supervise all assigned administrative duties required in accordance with the Towns policies and all applicable state and federal laws.

131.6.4. Purchases.

The Town Manager shall be general purchasing agent of the Town, and except where specific provision to the contrary is made by law or by the Board, he shall make all purchases of supplies, materials and equipment authorized by the Board, in the manner prescribed by, and subject to the limitations imposed by law. No purchase shall be made or obligation incurred excepting upon authorization by the Board and no expense shall be incurred, except for the purpose for which no prior appropriation is required by law, if the amount thereof is not covered by an unexpended appropriation for the purpose.

131.6.5. Appropriation and Levies.

131.6.5.1. It shall be the duty of the Town Manager to cause to be prepared each year the annual budget and appropriation ordinance in time for consideration and enactment by the Board and to prepare the tax levy ordinance for passage and file a certified copy thereof with the county clerk within the time required by law.

131.6.5.2. The Town Manager shall keep current accounts of the amounts appropriated and the amounts spent out of each appropriation, showing the unexpended appropriations at all times.

131.6.6. Accounts.

It shall be the duty of the Town Manager to keep, or cause to be kept, current accounts, showing at all times the fiscal condition of the Town, including the current and anticipated expenses, appropriations, cash on hand and anticipated revenue of all municipal funds and accounts; and he shall see to the collection of all money due the municipality.

131.6.7. Inventories.

The Town Manager shall keep, or cause to be kept, a current inventory showing all real and personal property of the Town and its location.

131.6.8. Reports and Publications.

It shall be the duty of the Town Manager to see to the publication of all notices, ordinances and other documents required by law to be published, all reports which the Town or any of the officials thereof are required by law to prepare.

131.6.9. Elections.

The Town Manager shall assist the Town Clerk with all notices, ballots, and election provisions necessary in connection with municipal elections.

131.6.10. Records and Certificates.

131.6.10.1. The Town Manager shall make available to the Custodian of Records, Town Clerk, all necessary clerical assistance for the preparation of all municipal records required by law to be kept by the Town and shall make available a place for the custody of such records. Also, in compliance herewith, the Town Manager shall make available to the Clerk, stenographic or clerical assistance necessary for the preparation of the journal of Town Board Proceedings, and the record of ordinances and all other documents which by law the Clerk is required to keep; and he shall perform similar service for the treasurer in the maintenance of bond registers, and all other records or documents which by law the treasurer is required to keep or prepare.

131.6.10.2. Where the law requires or provides for certification of any records or documents by an officer of the town, the Town Manager shall cause such records or documents to be properly prepared and presented to such officer for his/her signature.

131.6.11. Collector and Controller.

The Town Manager shall be ex officio Town Collector and Town Controller unless such offices, or either of them, are duly filled by appointment, and he shall perform the duties of each such office in the absence of such appointment to either of them.

131.6.12. Maps and Plats.

The Town Manager shall cause to be kept a complete set of maps and plats showing the location of all town utilities, and other municipal properties, all streets and other public places, and all lots and parcels of land subdivided according to law.

131.6.13. Offices.

The Town Manager shall maintain an office in the Town Hall and shall spend such time in the performance of duties as may be required by the Board of Trustees.

131.6.14. Absence from the Town.

In the event that the Town Manager is absent from the Town or incapacitated to such a degree he/she is unable to perform the duties required of his/her position, the Town Manager shall designate which staff member shall act as Town Manager during such absence or incapacity. This designation shall occur at the first meeting of each year and such designation shall be effective for the remainder of the year, upon approval by the Board of Trustees. In the event that the designated staff member desires to be removed from such designation, the designated employee leaves employment with the Town of Limon, or the Town Manager believes that another employee would better fulfill those obligations and responsibilities in the absence of the Manager; the Town Manager may reselect his designee at any time subject to approval of the Board of Trustees.

131.6.15. Property.

The Town Manager shall be responsible for the care and custody of all such property including equipment, buildings, parks and all other town property, which is not by law assigned to some other officer or body for care and control.

131.7. Public Works Director.

(Added June 6, 1996 by Ordinance No. 398; Section deleted in its entirety May 6th, 2010 by Ordinance No. 538.)

131.8. Town Clerk / Treasurer.

(Amended on July 11, 2002 by Ordinance No. 477)

131.8.1. Appointment.

The office of Town Clerk and Town Treasurer shall be filled by the same person until such time as the Code may be amended by the Board of Trustees. The Board of Trustees shall appoint the Clerk / Treasurer at the first meeting following a regular municipal election.

131.8.2. Statement of Statutory Duties.

The Town Clerk / Treasurer is appointed by the Board of Trustees, pursuant to Title 31, Part 4, Section 304 of the Colorado Revised Statutes. Pursuant to state statute, the Town Clerk is given the following statutory duties:

131.8.2.1. To attend all meetings of the board of trustees and to make a true and accurate record of all the proceedings, rules, and ordinances made and passed by the Board of Trustees.

131.8.2.2. To be the custodian of the records of the Town, not otherwise assigned to another officer, which records are to be in the Clerk's custody and shall be open to inspection at all reasonable times and under reasonable regulations established by the Town as provided in the Open Meetings Law. The records maintained by the Town Clerk shall include any codes adopted by reference by the Board.

131.8.2.3. To be the election official, as defined by statute, for all municipal elections and to fulfill all duties of the election official.

131.8.3 Supervisory Authority as to Statutory Duties.

The Town Clerk / Treasurer, as to those statutory duties set forth above, as well as any other duties that may subsequently be assigned to the Town Clerk / Treasurer by state statute, is empowered and authorized to generally direct the employees stationed in the Administrative Department, including but not limited to the Code Enforcement Technician and the Billing Clerk / Receptionist, provided that such supervision does not interfere with the duties, authority, and objectives of the Town Manager.

131.8.4. Statement of Assigned Duties.

The Town Clerk / Treasurer is also subject to all policies of the Town of Limon and responsible for the fulfillment of all duties imposed by the Board of Trustees. The assigned duties of the Town Clerk / Treasurer shall include but not necessarily be limited to those duties set forth in the following:

131.8.4.1. The Town Clerk / Treasurer shall have financial responsibilities to include payroll, investments, vouchers payable, cash receipts, accounts payable and receivable.

131.8.4.2. The Town Clerk / Treasurer shall have responsibility for the entering of all financial information into the Town computer and software network as provided by the Town.

131.8.4.3. The Town Clerk / Treasurer shall be responsible for all information and notice management including posting of notice, when necessary, and publication of all notices, ordinances, resolutions, and other documents required by law to be published including but not limited to minutes and the agendas for the Board of Trustees, Planning Commission, and the Board of Adjustment meetings.

131.8.4.4. The Town Clerk / Treasurer shall be responsible for the issuance of licenses and permits, applicable to his or her position, and for the handling of Town insurance policies, including Workers Compensation and health insurance, as well as other benefit programs.

131.8.4.5. The Town Clerk / Treasurer shall be responsible for the monitoring of all required substance abuse compliance programs.

131.8.4.6. The Town Clerk / Treasurer shall be responsible for the collection of all money due to the Town.

131.8.5. Supervision and Supervisory Authority as to Assigned Duties.

As to all assigned duties, as set forth above and any other duties subsequently assigned by the Board, the Town Clerk / Treasurer shall be under the supervision of the Town Manager. Subject to the Town Manager's overall administrative supervising authority, the Town Clerk / Treasurer, is empowered and authorized to generally direct the employees stationed in the Administrative Department, including but not limited to the Code Enforcement Technician and the Billing Clerk / Receptionist.

131.9. Town Attorney.

131.9.1. Appointment.

The office of Town Attorney shall be filled by a person who is licensed and in good standing to practice law in the State of Colorado. The office may be subject to competitive bidding at the discretion of the Board of Trustees. The Board of Trustees shall appoint the Town Attorney at the first meeting following a regular municipal election.

131.9.2. Statement of Duties.

The Town Attorney is appointed by the Board of Trustees, pursuant to Title 31, Part 4, Section 304 of the Colorado Revised Statutes. The Town Attorney shall attend all meetings of the Town Board unless directed otherwise by the Mayor. The Town Attorney shall also attend meetings of the Planning Commission, Board of Adjustment, or other municipal meetings or functions when so requested by the Town Manager. The Town Attorney is required to address all legal questions given to him or her by the Mayor, Board of Trustees, Town Manager, Police Chief, and the Town Clerk / Treasurer, unless a Town policy directs otherwise. The Town Attorney shall further perform such other duties as may be required of him or her by ordinance, or by request of the Mayor, Town Manager, Police Chief, and the Town Clerk / Treasurer."

132 - Salaries

HISTORY: 1958 Municipal Code

132.1. Establishment.

The officials and employees designated herein shall receive the monthly salaries indicated:

Title	Salary
Mayor	$ 49.75
Trustee	45.00

(Amended by Ordinance No. 380 on October 6, 1994 and by Ordinance 436 on December 16, 1999)

132.2. Payment.

All salaries shall be paid in equal monthly installments, unless provision is made to the contrary, by the Board. The treasurer shall prepare a payroll list monthly which, when signed by the mayor and clerk, shall authorize the issuance of checks for the salaries indicated to be due. Deductions as provided by law shall be made for pension funds, social security, withholding, or income tax, and insurance.

133 - Zoning

HISTORY: 1958 Municipal Code; Portions repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes.

HISTORY: Pursuant to powers in the 1958 Municipal Code, Ordinance No. 188 adopted July 1, 1965, was added to Sections 133 - Zoning. See Land Development Code for additional information.

133.1. Definitions.

133.1.1. Basement House. A dwelling or structure constructed partly or wholly below the grade level of any property.

133.2. Basement Houses and Moving Houses.

133.2.1. No basement house, as defined in this ordinance shall be erected in the Town of Limon.

133.2.2. No house, constructed, or partially constructed, shall be moved into or within the Town of Limon without approval of the Board of Adjustment. Before moving a house into the Town of Limon, or from one lot to a different lot within the Town, application shall be made to the Board of Adjustment. Said application shall be accompanied by a detailed set of plans and specifications of the finished house.

133.2.3. The houses referred to in this section shall include converted trailer coaches, with or without wheels, and buildings of the type of construction and material known as "Quonsets" or otherwise constructed for the most part of metal components, whether or not such buildings are used for residences or accessory buildings.

(Added March 3, 1966 by Ordinance no. 191)

133.3. Board of Adjustment.

(Amended completely on September 11, 1997 by Ordinance No. 415)

133.3.1. A Board of Adjustment is hereby established. The Board shall consist of five members and shall be appointed by the Mayor with the approval of the Board of Trustees, each to be appointed for a term of three years, except that of the first board appointed after this Ordinance, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years and one member for a term of one year. The presence of four members shall constitute a quorum and any action to reverse or modify any order, requirement, decision or determination appealed from or approve any variance request shall require four votes for approval. A motion to uphold any order, requirement,

decision, or determination or deny any variance request shall require a majority of the board's membership present.

133.3.2. A vacancy in the Board shall be appointed by the Mayor with the approval of the Board of Trustees to complete the term of the members replaced.

133.3.3. Members of the Board may be removed from office by a two-thirds vote of the Board of Trustees upon a motion including a statement of the specific reasons or findings of fact that support a motion for removal on the grounds of inefficiency, neglect of duty or malfeasance in office. The vacancy created would be filled pursuant to Section **133.3.2.**

133.3.4. The Land Development Code adopted by Ordinance No. 376, as amended, provides the appeal and variance process decided on by the Board of Adjustments.

133.4. Certificate for Occupancy for Land.

133.4.1. Certificate of occupancy for the use of vacant land or the change in the use of land as herein provided shall be applied for before any such land shall be occupied or used, and a certificate of occupancy shall be issued within ten days after the application has been made, provided such use is in conformity with the provisions of these regulations.

133.4.2. Certificate of occupancy shall state that the building or proposed use of a building or land, complies with all the building and health laws, codes and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to any person having a proprietary or tenant's interest in the building affected. No fee shall be charged for an original certificate applied for coincident with the application for a building permit; for all other certificates, or for copies of the original certificate there shall be a fee charged of One Dollar each.

133.4.3. No permit for excavation for any building shall be issued before application has been made for certificate of occupancy.

133.5. Plats.

Applications for building permits shall be accompanied by a plat in duplicate drawn to scale showing the actual dimensions of the lot to be built upon, the size of the building to be erected, and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications shall be kept in the office of the Building Inspector.

133.6. Interpretation, Conflict and Purpose.

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirement for the promotion of the public health, safety, morals, order, conveniences, happiness, prosperity, and general welfare. It is not intended by this ordinance to interfere with, or abrogate or annul any easements, covenants, or other agreements, between parties; provided, however, that wherever this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or permits, or easements, covenants, or agreements, the provisions of this code shall govern.

134 – Utility Service Billing

134.1. Utility Billing shall include all billings for Water (Section **135**), Wastewater (Section **137**), Sanitation (Section **550**), as well as Miscellaneous Billings. These billings shall be combined on a single Utility Service Bill. The sum of these billings shall be the Principal Amount Owed. The Utility Service Bill shall include any Principal Amount Owed as well as any penalty fees and interest fees allowed by Section **134**.

HISTORY: Added on July 1, 1999 by Ordinance No. 431; amended November 5, 2009 by Ordinance No. 532.

134.2. Billing Date.

The Utility Service Bill described in Section **134.1.** shall be dated and mailed on the first working day of each month.

134.3. Due Date.

The Utility Service Bill shall be due and payable fourteen (14) days after the Billing Date.

134.4. Delinquent Date.

The Utility Service Bill shall be considered delinquent seven (7) days following the Due Date and shall be subject to a Penalty Fee in the amount of fifteen dollars

($15.00) or up to five percent (5%) per month, or fraction thereof, not to exceed a total of twenty-five percent (25%) of the amount due, whichever is greater.

(Amended November 5, 2009 by Ordinance No. 532.)

134.5. Shut-Off-Date.

Water Service shall be shut-off on the Delinquent Date of the following month. In cases where the Water Service is shut-off due to delinquency, a Reconnect Fee of twenty-five dollars ($25) will be paid before water service is restored.

134.6. Interest.

In addition to the Penalty Fee, on the Delinquent Date of the following month, interest will be charged at the rate of one and one-half percent (1.5%) per month, not to exceed an annual percentage rate of eighteen percent (18%) on the Principal Amount Owed.

134.7. Delinquent Notice.

On the Delinquent Date a Delinquent Notice shall be mailed to the customer. Such Delinquent Notice shall state the amount of the Billing for Utility Services, the amount of penalty fee and the Shut-Off date and Reconnect Fee. The delinquent notice to be mailed under the provisions of this section shall be substantially as follows:

_____ 20_____

Your account #_____ is now delinquent in the principal amount of $_____.
A Penalty Fee of $_____ has been assessed.
The total amount owed is now $_____.
If this amount is not paid in full by _____, service will be discontinued without further notice.
A $25.00 Reconnect fee will be charged if it comes necessary to disconnect your water service.

Accounts delinquent for more than 30 days are subject to an additional interest fee equal to 1.5% of the principal amount

All charges must be paid before service is re-established.
TOWN OF LIMON

134.8. Lien.

134.8.1. Charges for water and sewer shall be a lien upon the premises as provided by statute. Whenever a bill for water service remains unpaid sixty days after is has been rendered, the clerk may file with the recorder of Lincoln County, a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the town claims a lien for this amount as well as for all charges for water served subsequent to the period covered by the bill.

134.8.2. If the consumer of water, whose bill is unpaid, is not the owner of the premises, and the clerk has notice of this, then notice shall be mailed to the owner of the premises, if his address is known to the clerk, whenever such bills remain unpaid for a period of sixty days after the bill is rendered.

134.8.3. The failure of the clerk to record such lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for unpaid water bills as mentioned in the following section.

134.8.4. Foreclosure of Lien.

Property subject to a lien for unpaid water charges shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by and in the name of the Town of Limon.

135 - Water Department

HISTORY: 1958 Municipal Code; Amended by Ordinance No. 398 on June 6, 1996; Amendments Noted As Shown

135.2. Water Department General Provisions.

135.2.1. Turning On: No water from the town water supply shall be turned on for service into any premises by any person but the Town Manager or some person authorized by him to perform this service.

135.2.2. Plumbing: No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of the town; provided, that water may be turned on for construction work in unfinished buildings, subject to the provisions of this code.

135.2.3. Water Service Connection Fees: No connections with a water main shall be made without a permit issued and 24 hours notice having been given to the Town Manager. All such connections shall be made and all such work done at the expense of the applicant for service who shall also furnish materials necessary for such work; all such connections shall be made under the supervision of the Superintendent and no connection shall be covered until the work has been inspected by him. Applications for such connections must be made to the Town Clerk and the fee, according to the following schedule shall be paid:

135.2.3.1. Connections Within the Town of Limon From the Effective Date of this Code, Charges Assessed to Each New Water Service, Based on Meter Size, Will be as Follows:

Size	Areas Inside The Town Limits or Annexed	Areas Outside The Town Limits
3/4"	$ 2,460.00	4,920.00
1"	3,284.00	6,569.00
1 1/2"	7,380.00	14,760.00
2"	13,100.00	26,199.00
3"	29,520.00	59,040.00
4"	52,472.00	104,944.00

(Amended May 9, 2002 by Ordinance No. 471)

135.2.3.2. Subdivisions having private parks with maintenance assessed to the owner thereof will be charged an additional water development fee of $1,000.00 of each acre so developed.

(Amended December 1, 1977 by Ordinance no. 246)

135.2.3.3. Any permit to connect with a Town water main issued under the authority of this Section **135.2.3.** shall specify the street address or other legal description of the land or building for the service of which the permit is issued. The permit shall only be valid for connection to the Town water mains for service to the land or building described in the permit.

135.2.3.4. Any permit to connect with a Town water main issued under the authority of this Section **135.2.3.** shall expire and become null and void one year after the date of issuance thereof, unless connection is made to a Town water main under the authority of said permit within such one year period.

(Added May 7, 1981 by Ordinance No. 272)

135.2.4. Resale.

No water shall be resold or distributed by the recipient thereof from the town supply to any premises other than that for which application has been made and the meter installed, except in case of emergency.

135.2.5. Tampering.

It shall be unlawful for any person not authorized by the Town to tamper with, alter or injure any part of the town waterworks or supply system, or any meter.

135.2.6. Penalty.

Any person, firm or corporation violating any provision of this code shall be fined not less than ten dollars nor more than three hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

135.3. Service Pipes.

135.3.1. Installation.

All service pipes from the mains to the premises served shall be installed by, and at the cost of, the owner of the property to be served on the application for the service. Such installation shall be under the inspection of the building inspector.

135.3.2. Pipes.

No service shall be installed unless it conforms to standards and regulations promulgated by the Town Board, a copy of which may be inspected at the office of the town clerk.

135.3.3. Repairs.

All repairs for service pipes and plumbing systems of buildings shall be made by and at the expense of the owners of the premises served. The town may in case of an emergency, repair any service pipes and if this is done the cost of such repair work shall be repaid to the town by the owner of the premises served.

135.3.4. Excavations.

Excavations for installing service pipes or repairing the same shall be made in compliance with the code provisions relating to making excavations in streets. Provided, that it shall be unlawful to place any service

pipe in the same excavation with, or directly over, any drain pipe or sewer pipe.

135.3.5. Shut – Off Boxes.

Shut-off boxes or service boxes shall be placed on every service pipe, and shall be located between the curb line and the sidewalk line where this is practicable. Such boxes shall be so located that they are easily accessible and shall be protected from frost.

135.4. Meters – Rates.

135.4.1. Meters Required.

All premises using the town water supply must be equipped with an adequate water meter furnished by the town but paid for by the consumer; provided, that such water service may be supplied by the town at a flat rate of charge until such meter may be installed.

135.4.2. Installation.

Meters shall be installed in a location that will be easy of access.

135.4.3. Reading Meters.

The Town Manager shall read or cause to be read every water meter used in the Town at such times as are necessary that the bills may be sent out at the proper time.

135.4.4. Testing Meters.

Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a fee of $5.00. If upon test the meter is not within three per cent of being accurate, it shall be repaired or replaced and the $5.00 fee returned to the consumer. If, the meter is correct according to the above standards, the $5.00 fee shall be retained by the Town.

135.4.5. Rates within the Corporate Limits of the Town of Limon.

135.4.5.1. All premises which may now or may hereafter be constructed or created having a connection with any mains or pipes which may be used hereafter or are now constructed and used in connection with the Town water system shall pay the following rates per month in the following column:

RATE	SCHEDULE IN GALLONS
$13.83	First 3,999
$3.32 per 1000 gallons	4000-14,999
$3.46 per 1000 gallons	15,000-33,999
$3.60 per 1000 gallons	34,000-up

135.4.5.2. The minimum (monthly) rate for all premises connected to the system by any tap whatsoever shall be $13.83.

135.4.5.3. On an annual basis, these rates shall be adjusted by the amount of the previous year's Denver-Boulder Consumer Price Index with no further action of the Board of Trustees. The annual adjustment will take place in the January billing beginning in 2011.

(Amended June 21, 1962 by Ordinance No. 180; Amended November 6, 1969 by Ordinance No. 210; Amended October 5, 1972 by Ordinance No. 220; Amended June 2, 1977 by Ordinance No. 243; Amended November 1, 1979 by Ordinance No. 263; Amended May 1, 1986 by Ordinance No. 316.; Amended December 5, 1996 by Ordinance No. 408; Amended November 12, 1998 by Ordinance No. 425; Amended December 4, 2008 by Ordinance 527; Amended November 5, 2009 by Ordinance No. 535)

135.4.6. Bills.

(Amended April 1, 1982 by Ordinance No. 285; Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

135.4.7. Bulk Water.

(Amended March 6, 2008 by Ordinance No. 523.)

The Town Manager shall have the authority to sell bulk water pursuant to applicable laws and ordinances for use within the Town of Limon and outside the limits of the Town of Limon. All such sales shall pay two (2) times the currently adjusted rates shown in Section **135.4.5.** -- Rates Within the Corporate Limits of the Town of Limon for rate category 34,000-up.

135.4.8. Non-Payment.

(Amended April 1, 1982 by Ordinance No. 285; Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

135.4.9. Lien.

(Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

135.4.10. Foreclosure of Lien.

(Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

135.4.11. Water Service Outside the Corporate Limits of the Town of Limon.

135.4.11.1. Eligibility. At no time shall; the Town of Limon grant water service to a customer outside the corporate limits of the Town of Limon unless a majority of the Board of Trustees takes action at a duly called meeting of the Board of Trustees specifically allowing such water Service.

135.4.11.2. Determination. Prior to such action as described in **135.4.11.1.** the Board of Trustees shall consider the following items in order to ensure that the public welfare shall be preserved.

135.4.11.2.1. Would service affect the ability to provide service to customers within the corporate limits of the Town of Limon?

135.4.11.2.2. What is the economic benefit to the Town of Limon?

135.4.11.2.3. What affect will this service have on future development and annexations by the Town of Limon?

135.4.11.2.4. What factors prevent annexation of the property to be served by the Water Service?

135.4.11.3. Finding.Prior to granting or denying water service outside the corporate limits of the Town of Limon the Board shall include in their decision a finding which explains the factors explored in the determination.

135.4.11.4. All services which currently existed upon the effective date of this code shall remain the responsibility of the customer until such time as the customer requests re-tapping of a Town of Limon water main.

135.4.11.4.1. At the time any customer located outside the corporate limits requests re-tapping of a Town of Limon water main, the existing installation must be upgraded and will meet all requirements described in Section **135.4.11.5.**

135.4.11.5. All services granted according to this code shall meet the following requirements:

135.4.11.5.1. The owner /developer shall be responsible for the extension or creation of water transmission facilities and mains to and from the property to be served.

135.4.11.5.2. The water system shall be designed and installed by the developer/owner in accordance with the requirements of the Town.

135.4.11.5.3. Water mains shall be installed to serve each lot.

135.4.11.5.4. All pipe and other transportation materials, upon installation, shall be deemed to be the exclusive property of the Town. Further, prior to installation, the customer shall be responsible for acquiring appropriate easements for the installation of necessary equipment. Such easements for water lines shall be deeded and dedicated as exclusive easements in favor of the Town and no structure or other obstruction other than fences and landscaping shall be allowed within a water line easement.

135.4.11.5.5. Water line easement acquired shall be recorded with the Lincoln County Clerk and Recorder.

135.4.11.5.6. All installations shall meet all the requirements for service lines and water meters in section **135**.

135.4.11.5.7. The Town of Limon may require larger mains to be constructed in order to serve the needs of adjacent property owners. When this occurs, the Town may enter into an agreement with the customer to collect from adjacent landowners a pro-rata share of the construction costs and refund such costs to the customer at the time of each connection. Any Cost Recovery Agreement shall meet the requirements of Section **III.7.5.** of the Land Development Code of the Town Of Limon.

135.4.11.6 Rates Outside the Corporate Limits of the Town of Limon. All services connected to the Town of Limon water system shall pay two (2) times the rates shown in Section **135.4.5.** -- Rates Within the Corporate Limits of the Town of Limon.

(Amended June 21, 1962 by Ordinance No. 180; Amended November 6, 1969 by Ordinance No. 210; Amended October 5, 1972 by Ordinance No. 220; Amended June 22, 1977 by Ordinance No. 243; Amended November 1, 1979 by Ordinance No. 263; Amended May 1, 1986 by Ordinance No. 316; Amended by December 5, 1996 by Ordinance No. 408)

136 - Parks and Recreation Board

HISTORY - 1958 Municipal Code; Deleted in its entirety by Ordinance No. 380 on October 6, 1994

137 - Sewer Department

HISTORY: 1958 Municipal Code and Amended July 7, 1958 by Ordinance No. 171, repealed and replaced by Ordinance No. 339; Amended March 6, 2003 by Ordinance 480

137.1. Definitions.

137.1.1. Unless the context specifically indicates otherwise, the following terms as used in Section **137**, shall have the meanings hereinafter designated:

137.1.1.1.Act: the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, and subsequent amendments (e.g., Clean Water Act of 1977).

137.1.1.2.Authorized Representative of Industrial User:

137.1.1.2.1. A principal executive officer of at least the level of vice president, if the industrial user is a corporation;

137.1.1.2.2. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

137.1.1.2.3. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the indirect discharge originates.

137.1.1.3.BOD or Biochemical Oxygen Demand: the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory methods of five (5) days at twenty degrees (20º) C., expressed in terms of weight and concentration (milligrams per liter).

137.1.1.4.Building Official: the Town Superintendent of the Town of Limon, Colorado or his designated representative.

137.1.1.5.Collection Line: that portion of the wastewater treatment system which collects and transmits wastewater from users to the wastewater treatment plant, excluding service lines.

137.1.1.6.Commercial: pertaining to all wastewater service provided to other than residential, restaurant, or industrial users.

137.1.1.7.Compliance Schedule: a schedule containing increments of progress in the form of dates for the commencement and/or completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards.

137.1.1.8.Composite Sample: a series of grab samples of equal volume taken over a predetermined time period without regard to flow and which are combined into one sample.

137.1.1.9.Conventional Pollutant: BOD, suspended solids, pH and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in the Town's CDPS permit for its wastewater treatment works where said works have been designed and used to reduce or remove pollutants.

137.1.1.10. Cooling Water: the water discharged from uses such as air conditioning or refrigeration or to which the only pollutant added is heat.

137.1.1.11. Domestic Wastes or Sanitary Wastes: liquid wastes:

137.1.1.11.1. From the noncommercial preparation, cooking and handling of food, or

137.1.1.11.2. Containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

137.1.1.12. Fast Food Restaurant: an establishment where meals and refreshments are prepared on the premises for sale to the public and said meals are served in or on paper products and no garbage disposal is located upon the premises.

137.1.1.13. Fixture Unit Equivalent: the unit value prescribed for plumbing fixtures as set out in the Uniform Plumbing Code, latest edition, computed on the basis of the design capability of such fixture to permit the flow of water or wastewater.

137.1.1.14. Garbage: solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.

137.1.1.15. Grab Sample: a singular sample of a user's effluent which is taken during the user's normal operating day without regard for variations in daily operational characteristics, flow or concentrations of pollutants.

137.1.1.16. Incompatible Pollutant: any pollutant which is not a "conventional pollutant" as defined in Section **137.1.1.9.**

137.1.1.17. Individual Wastewater Disposal System: a septic tank, cesspool or similar self-contained receptacle or facility which collects and/or treats or otherwise disposes of wastewater and which is not connected to the wastewater treatment system of the Town.

137.1.1.18. Industrial User: a source of indirect discharge under regulations pursuant to the Act or for which local pretreatment standards have been published by the Environmental Protection Agency or for which local pretreatment standards have been established.

137.1.1.19. Industrial Waste: any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process or operational procedures of an industrial user.

137.1.1.20. Interference: inhibition or disruption of the publicly owned treatment work's (POTW's) sewer system, treatment processes operations or which contributes to a violation of any requirement of the Towns' CSPS permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act (33 V.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Wastes Disposal Act (SWDA), the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the POTW.

137.1.1.21. Master Plumber: a master plumber as defined in and licensed pursuant to Article 58 of Title 12 of the Colorado Revised Statutes as the same may be now or hereafter amended.

137.1.1.22. NPDES or National Pollutant Discharge Elimination System: the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone and the oceans pursuant to Section 402 of the Act. This shall be analogous with the term CDPS, Colorado Discharge Permit System, wherein the State of Colorado is delegated the authorities and responsibilities outlined above.

137.1.1.23. New Source: any industrial user, the construction of which is commenced after the effective date of regulations prescribed in Section 307 (c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such industrial user.

137.1.1.24. Normal Domestic Strength Wastewater: wastewater that when analyzed by standard methods contains no more than 280 milligrams per liter of suspended solids (TTS) and 280 milligrams per liter of BOD.

137.1.1.25. Operating Day: that portion of a twenty-four (24) hour day during which industrial wastes are discharged or generated.

137.1.1.26. pH: the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

137.1.1.27. Plant Investment Fee: that charge assessed against new users of the wastewater treatment system to finance capital improvement of the wastewater treatment system.

137.1.1.28. Pretreatment: application of physical, chemical and/or biological processes to reduce the amount of pollutants in or to alter the nature of the pollutant properties in wastewater prior to discharging such wastewater into the wastewater treatment system.

137.1.1.29. Pretreatment Standards: all applicable Federal rules and regulations implementing Section 307 of the Act, as well as any nonconflicting State or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.

137.1.1.30. Receiving Water: lakes, rivers, streams, or other watercourse which receive treated or untreated wastewater.

137.1.1.31. Residential: pertaining to wastewater service provided premises used as dwelling places or residences, including, but not limited to, single-family dwellings, common wall multi-family dwellings, mobile homes, and manufactured homes.

137.1.1.32. Restaurant: an establishment where meals and refreshments are prepared on the premises for sale to the public.

137.1.1.33. Service Line: the wastewater collector line extending from the wastewater disposal facilities of the premises up to and including the connection to the collection line.

137.1.1.34. Significant Industrial User: any industrial user of the Town's wastewater treatment system whose discharge rate:

137.1.1.34.1. Exceeds twenty-five thousand (25,000) gallons per average operating day, or

137.1.1.34.2. Is determined by the Superintendent to have significant impact, either singly or in concert with other contributing industries, in the treatment works such that the quality of the effluent from the treatment works deviates from the requirements set froth in the Colorado Discharge Permit System (CDPS) permit issued to the Town, or such that interference with the treatment process or facilities would result.

137.1.1.35. Significant Violation: a violation of this code which remains uncorrected forty-five (45) days after notification of noncompliance; or which is a pattern of noncompliance over a twelve (12) month period; or which involves a failure to accurately report noncompliance; or, which resulted in the POTW exercising its emergency authority under Section 403.8(F) (1)(IV)(B) of the Act.

137.1.1.36. Sludge Discharge: any discharge of water, sewage or industrial waste which:

137.1.1.36.1. Contains any substances regulated by Article VIII in concentrations which exceed for any period longer than ten (10) minutes more than five (5) times the average daily concentration of that substance during normal operations and exceeds the limitations contained in Article VIII; or,

137.1.1.36.2. Causes a twofold or more increase in discharge rate for a period longer than twenty (20) minutes; or

137.1.1.36.3. Causes the user's effluent to violate the pH limitations provided in Article VIII for a period longer than twenty (20) minutes.

137.1.1.37. Storm Water: any flow occurring during or immediately following any form of natural precipitation and resulting there from.

137.1.1.38. Superintendent: the Town Manager or his designated representative.

(Amended June 6, 1996 by Ordinance No. 398)

137.1.1.39. Suspended Solids: the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering by standard methods.

137.1.1.40. Town: the Town of Limon, the operating organization responsible for the operation and maintenance of the wastewater treatment system.

137.1.1.41. Unpolluted Water: is water not containing any substances limited or prohibited by the effluent standards in effect or water whose discharge will not cause any violation of receiving water quality standards.

137.1.1.42. User: any person who discharges, or causes or permits the discharge of wastewater into the Town's wastewater treatment system.

137.1.1.43. User Classification: a classification of users such as residential, commercial, restaurant, industrial, or significant industrial user.

137.1.1.44. Wastewater: the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the Town's wastewater treatment system.

137.1.1.45. Wastewater Treatment System or Wastewater System:

137.1.1.45.1. Any devices, facilities, structures, equipment or works owned or used by the Town for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, collection lines, pumping, power and other equipment, and their appurtenances and excluding service lines;

137.1.1.45.2. Extensions, improvements, additions, alterations, or any remodeling thereof;

137.1.1.45.3. Elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and

137.1.1.45.4. Any works, including the land and sites that may be acquired, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

137.1.2. Terms not otherwise defined herein shall have the meanings adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

137.2. County Health Department, Health Officer

Any reference in this code to the "Department of Health" or "the Health Department" shall mean the Department of Health of Lincoln County. Any reference in this code to the "Health Officer" shall mean the Health Officer of the Department of Health of Lincoln County, or his designated representative.

137.3. Town Responsibilities.

137.3.1. Responsibility of the Town.

The Town shall be responsible for the wastewater systems and wastewater treatment plant serving the Town and such other areas as authorized by the Board of Trustees.

137.3.2. Responsiblity of Superintendent.

The Superintendent of the Town shall be responsible for the management of the wastewater system of the Town and all of the property appertaining thereto. He shall see that such system is kept properly cleaned and in good working order and repair. He shall insure proper compliance with all local, State and Federal regulations for collection, treatment, and discharge of wastewater and shall perform all other duties in connection with such system as may be required of him by the Board of Trustees.

137.3.3. Rules and Regulations; Adoption of.

The Superintendent may adopt rules and regulations consistent with the provisions of this code for the administration of the wastewater system. Rules and regulations adopted by the Superintendent pursuant to this code shall pertain to, but shall not be limited to, discharge limitations, pretreatment requirements, standards, standards for installation of wastewater lines and services and implementation of standards promulgated pursuant to the Act. In establishing such rules and regulations, the Superintendent shall seek to establish standards that will assure safe, efficient operation of the wastewater system, that will limit wastewater discharges to the system in concentrations and quantities which will not harm either the wastewater system, wastewater treatment process or equipment, that will not have an adverse effect on the receiving water, or will not otherwise endanger persons or property or constitute a nuisance. Such rules and regulations shall become effective after ratification by the Board of Trustees of the Town.

137.4. Wastewater Service.

137.4.1. Application for Service.

Any person desiring to connect a service line to the wastewater treatment system of the Town, or to add fixtures to an existing connection, shall make application to the Superintendent for wastewater service. The application for service shall be supplemented by any plans, specifications, or other information deemed necessary by the Superintendent to determine compliance with all codes and ordinances, regulations or rules concerning the wastewater system. The Superintendent shall endorse his approval or disapproval of the application as complying or failing to comply with all codes, ordinances, regulations or rules concerning the wastewater system of the Town. Upon approval by the Superintendent of such application, such user receiving wastewater service shall pay therefore in accordance with the applicable rates, rules and regulations.

137.4.2. Service Outside the Town; Policy.

The policy of the Town relating to the furnishing of wastewater treatment service to users located outside the boundaries to the Town requires agreement to annex to the Town prior to discharge of water to the Town's wastewater system. The Town expressly reserves the right, as may be limited by State or Federal law, to impose such conditions as it may see fit relative to furnishing such service, and may refuse such service in its discretion. Any deviation to this policy requires approval by the Board of Trustees of the Town.

137.4.3. Application for Service Outside the Town.

Any person desiring to connect a service line and/or add fixtures to an existing connection which is located outside the Town limits shall comply fully with this code. Such person shall then make application to the Town for wastewater service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Superintendent to

determine compliance with all regulations or rules concerning the wastewater system. The Superintendent shall endorse his approval or disapproval of the application as complying or failing to comply with all regulations or rules concerning the wastewater system of the Town.

137.4.4. Service: Special Contract.

137.4.4.1. The Town may provide by contract for the use of and connection to the Town's wastewater treatment system by institution, plants, organized sewer districts, municipal corporations or other similar users which are located outside the boundaries of the Town. Such use of or connection to the Town's wastewater treatment system shall be subject to such terms and conditions as the Town may see fit to impose.

137.4.4.2. Contracts entered into pursuant to this Section shall provide for compliance by the user with the discharge prohibitions and limitations contained in this code. Such contracts shall require the user to:

137.4.4.2.1. Submit to the jurisdiction of the Town for the purposes of the enforcement procedures and penalties set out in this code; and

137.4.4.2.2. Stipulate liquidated damages for violation of the provisions of this code in an amount equal to the penalties imposed herein.

137.4.4.3. Contracts entered into pursuant to this Section may provide for acceptance by the Town of only normal domestic strength wastewater, and the requirements of section **137.4.4.2.2.** shall not apply to such contracts. However, such contracts shall provide that any discharge of industrial wastewater by the user shall subject such user to consequential damages for breach of contract including, but not limited to, any amounts the Town may be required to pay for violation of the conditions of its CDPS permit where the discharge of the user caused or contributed to such violation. Discharges of industrial wastewater by a user bound by such contract shall not be accepted by the Town except pursuant to notice to the Town and execution of an amended or additional contract to which the requirements of section **137.4.4.2.2.** shall apply.

137.4.4.4. Contracts for use of or connection to the wastewater treatment system of the Town in force and effect on the effective date of this code shall remain in full force and effect in accordance with the terms and conditions thereof.

137.4.5. Excavations for Service.

All excavations for installation or repair of wastewater lines shall be adequately guarded with barricades and lights and meet all applicable safety standards so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Town and other local governing authority.

137.5. Connection and Installation of System.

137.5.1. Connection Required.

The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a collection line of the Town, is hereby required at such owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the proper collection line in accordance with the provisions of this code within ninety(90) days after official notice to do so, provided that said collection line is within four hundred feet (400') of the property line. Under unusual circumstances such as unique topographical characteristics, the Board of Trustees, with Health Department approval, may waive the connection requirement herein stipulated.

137.5.2. Connection or Disconnection Permit.

The Town shall issue a permit for each connection or disconnection made to or from the wastewater treatment system of the Town. Such permit will be required for all new connections, existing connections where additional fixtures are to be installed, and for disconnections. Permits for connections or disconnection shall be issued only to master plumbers. Discharge permits for significant industrial users shall be required as provided in sections **137.11.** and **137.12.** in addition to the connection permit.

137.5.3. Unauthorized Connections Prohibited.

It shall be unlawful for any unauthorized person to uncover, make any connections with or openings into, use, alter or disturb any collection line or appurtenance thereof, without first obtaining written permission from the Superintendent. Such connections shall be made in compliance with Building and Plumbing Codes, Town technical specifications and other applicable rules and regulations of the Town.

137.5.4. Connection to System; Inspection by Town.

The applicant for the wastewater service permit shall notify the Superintendent when the service line is ready for inspection and connection to the collection line. The connection and testing required by the Town shall be made under the supervision of the Superintendent. The Town shall not be subjected to any liability for any deficiency or defect which in not discovered by inspection nor shall the owner or developer of such premises be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect.

137.5.5. Collection Lines: Manner of Extension.

Collection lines to collect and intercept wastewater from and throughout areas or additions shall be extended by the owner and/or developer of premises to be served by such lines from the existing collection line to the farthest point or points upgrade of such premises. If the Superintendent determines that extension of collection lines to the farthest point or points upgrade is not necessary for efficient expansion of the wastewater treatment system, the Superintendent may waive the requirement of such extension. In any event, collection lines shall be extended by the owner and/or developer of premises to be served by such lines from the existing collection line to a point which permits the shortest possible service line between the collection line and the property line of the premises served thereby. Thereafter said collection lines shall be extended to adjoining premises in compliance with the latest edition of the Town's regulations and specifications as promulgated, supplemented and amended by the Superintendent, as provided in section **137.3.** Extensions shall not be made for remote or isolated services unless the applicant requesting such service shall provide for the cost of such extension to the point of service and such extension is approved by the Superintendent.

137.5.6. Wastewater Lines: Compliance with Subdivision Requirements.

No wastewater lines shall be laid or placed in any proposed addition or subdivision in the Town until said proposed addition is platted and approved by the local governing land use authority.

137.5.7. Service Lines: Separate for Each Building; Exceptions.

A separate and independent service line shall be provided for every building. However, where one building stands at the rear of another on an interior lot which cannot be subdivided, and no service line is available nor can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the service line of the front building may be extended to the rear building and the whole considered as one service. Multi-family or commercial or industrial complexes having more than one building on a single platted lot may have the individual buildings connected to a single common service line, unless and until such lot is re-subdivided or the buildings otherwise become separately owned in which case independent connections shall be made. Waiver of this requirement for a separate and independent service line, may be granted by the Superintendent upon re-subdivision or creation of separate ownership of individual buildings on a single lot with existing multi-family or commercial, but not industrial complexes. Such a waiver shall be granted upon showing that the service lines owned in common will be maintained by an entity of the owners of the separate buildings. By regulation, the Superintendent may provide for additional requirements to assure proper maintenance and repair of the common service lines, and, if necessary, monitoring of effluent quality or quantity. The Town does not assume any obligation nor acquire any liability for damage to the connecting property or any portion thereof caused by or resulting from any such connection to the wastewater system as aforementioned.

137.5.8. Service Line: Construction to Conform to Rules and Regulations.

The size, slope, alignment and materials of constructing of a service line, and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Codes and the Town's specifications and other applicable rules and regulations of the Town.

137.5.9. Service Line: Use of Gravity Flow.

Whenever possible, the service line shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the collection line, wastewater carried by such building drain shall be lifted by means approved by the Superintendent and discharged to the wastewater system.

137.5.10. Service Line: Maintenance of.

137.5.10.1. The owner of any premises connected to the Town's wastewater treatment system shall be responsible for the maintenance of the service line and appurtenances thereto, from and including the connection to the collection line to the premises served. The owner shall keep such line in good condition and shall replace, at his expense, any portions thereof which, in the opinion of the Superintendent, have become so damaged or disintegrated as to be unfit for further use. The owner must secure all required permits for construction purposes and shall be responsible for returning the public right-of-way and the street to acceptable Town/County standards.

137.5.10.2. In the event that more than one premises are connected to a single service line, the owners of the respective premises shall be jointly and severally responsible for the maintenance and repair requirements imposed by this Section.

137.5.10.3. Prior to repair or alteration of the service line, a permit must be obtained from the Town. A permit fee shall be imposed to cover the costs of the inspection. This inspection shall assure that codes, ordinances and rules applying to the wastewater system are met. The Town shall not be subjected to any liability for any deficiency or defect in the repair or alteration of such premises which is not discovered by inspection, nor shall the owner of such premises be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect.

137.5.11. Existing Lines Conditions for Use.

Old wastewater lines may be used in connection with new buildings only when they are found, on examination by the Superintendent, to meet all requirements of this code and to be compatible with the proposed use. If found unacceptable for future use, the owner shall be required to excavate the line at the point of connection to the collection line and cap the connection as required by the Town Rules for Installation of Sewer Mains and Services.

137.5.12. Construction: Requirements for Commencement and Completion.

Construction of a building or facility to be served by a wastewater connection shall be commenced within one hundred eighty (180) days from the date of payment of connection charges or issuance of a permit, and such construction shall be pursued to completion without suspension or abandonment, as set out in the Uniform Building Code under Building Permits, Section 302 (d). Failure to comply with the above regulations will result in cancellation of the permit and forfeiture of any plant investment fees paid.

137.5.13. Fixture Unit Equivalents.

137.5.13.1. Fixture unit equivalents shall be calculated using the following schedule and shall apply to "stubbed in" or "roughed in" fixture units as well as those fixtures being installed.

Kind of Fixture	Trap and Trap Arm Unit Size	Equivalents
Bathtubs	1-1/2"	2
Bidets	1-1/2"	2
Dental Unit or Cuspidors	1-1/4"	1
Drinking Fountains	1-1/4"	1
Floor Drains	2"	2
Interceptors for Grease, Oil, Solids, etc.	2"	3
Interceptors for Sand, Auto, Wash, etc.	3"	6
Laundry Tubs	1-1/2"	2
Clothes Washers	1-1/2"	2
Receptors, (Floor Sinks), Indirect Waste Receptors for Refrigerators, Coffee Urns, Water Stations, etc.	1-1/2"	1
Receptors, Indirect Waste Receptors for Commercial Sinks, Dishwashers, Air Washers, etc.	2"	3
Showers, Single Stall	2"	2
Showers, Gang (per shower head)	2"	1
Sinks, Bar, Private	1-1/2"	1
Sinks, Bar, Commercial	1-1/2"	2
Sinks, Commercial or Industrial, Schools, etc. Including Dishwashers, Wash-Up Sinks and Wash Fountains	1-1/2"	3
Sinks, Flushing Rim, Clinic	3"	6
Sinks, Double (Residential Kitchen)	1-1/2"	2
Dishwashers (Residential)	1-1/2"	2
Sinks, Service	2"	3
Urinals, Pedestal	3"	6
Urinals, Stall	2"	2
Urinals, Trough	1-1/2"	3

Wash Basins, (Lavatories)		
Single	1-1/4"	1
Wash Basins, In Sets	1-1/2"	2
Water Closet, Tank Type	3"	4
Water Closet, Flush Valve		
Type	3"	6

137.5.13.2. The unit equivalents of plumbing fixtures not listed above shall be based on the following schedule in the next column:

Trap or Trap Arm Size	Unit Equivalent
1-1/4"	1
1-1/2"	3
2"	4
3"	6
4"	8
5"	10
6"	12

137.5.14. Disconnection.

In the event that a user desires to disconnect his premises from the wastewater system of the Town, he shall not be permitted to take up that portion of the service line between the collection line and the property line of the premises, but at his expense the service line shall be capped at said property line and the service line shall be removed from the property line to the structure. New service lines to replace existing service lines shall not be approved by the Town until old service lines are dug up and properly capped. Such cap shall be sufficiently tight to prevent the escape of wastewater gas or the infiltration of water.

137.6. Costs and Charges.

137.6.1. Wastewater Facilities: Allocation of Cost.

137.6.1.1. Except as otherwise provided herein, a property owner or developer shall be responsible for the cost and construction of all wastewater facilities and the appurtenances thereto in and through his property or development upon approval of the plans and specifications by the Town. The Town shall inspect and approve the actual construction, prior to connection of the structures.

137.6.1.2. The Superintendent may require the property owner or developer to construct a collection line larger than that required for his needs for the service of lands adjacent to his property of development, in which case the Town may enter in to a recovery agreement with the owner or developer to collect a pro rata share of the costs of such construction from the owner of adjacent lands at the time of their connection and refund such costs to the owner or developer. When an owner or developer finds it necessary to construct wastewater facilities through or adjacent to unserviced or undeveloped lands, the owner or developer shall pay the entire cost of such facilities. However, the Town may agree in writing with the owner or developer to collect a pro rata share of the costs from the owner of property served by such facilities at the time of connection to the wastewater system and shall refund such cost to the owner or developer.

137.6.1.3. In the event that pump stations and force mains are required, the cost of constructing said station and mains shall be the responsibility of the owner of property served thereby. Where it appears that more area or lands may be served by the pump station and force mains, the Town may require a larger capacity than necessary to serve the initial development. Where such larger capacity is required, the Town may enter into a recovery agreement with the owner or developer to collect a pro rata share of the costs from adjacent lands at the time of their connection and refund such costs to the owner or developer.

137.6.1.4. In those instances where pump stations and force mains are required, the wastewater system shall be designed where possible so as to permit an eventual connection into a gravity system with a minimum of expense. Where practicable, easements shall be provided and lines constructed to tie into the gravity system. The Town may require deposits from the property owners requiring said force system, where deemed necessary, to pay for the eventual construction of gravity lines.

137.6.1.4.1. If an owner or developer desires to enter into a Recovery Agreement with the Town, he shall provide a complete detailed summary of all construction costs to the Town within one hundred twenty (120) days after the date of preliminary acceptance notice by the Town.

137.6.1.4.2. The owner or developer and the Superintendent shall jointly determine the service area of the facilities constructed by the owner or developer, and shall jointly determine a per-front-foot, per-lot or per-acre recovery charge for said service area. In the event that the owner or developer and the Superintendent shall fail to agree, the determination of the Superintendent shall be final for the purpose of review by the Town.

137.6.1.4.3. The amount of the recovery charge shall be computed by the terms and conditions set forth in the Recovery Agreement between the Town and the owner and developer.

137.6.1.4.4. The owner or developer's rights to reimbursement under the provisions of the recovery agreement shall not exceed the construction costs plus simple interest for a period of time to be stipulated in the Recovery Agreement.

137.6.1.5. All costs incidental to or resulting from the procurement by the Town of any required easement or right-of-way, whether obtained by dedication, contract, condemnation or otherwise, shall be borne by the owner or developer.

137.6.2. Installation Cost.

All costs and expenses incidental to the installation and connection of service lines from the collection line to the premises shall be borne by the owner of such premises. The owner shall indemnify the Town for any loss or damage to the Town that may directly or indirectly be occasioned by the installation of such service line.

137.6.3. Connection Charge.

In each lot, area, territory, subdivision or addition, inside or outside the Town limits, for which a request for wastewater connection or addition to the wastewater treatment system of the Town shall be made, there is and shall be a connection charge for each service line in said areas. Said connection charges shall consists of a permit charge and a plant investment fee and may also include recovery agreement charges.

137.6.4. Permit Charge.

A permit charge shall be assessed for each connection to the wastewater treatment system of the Town to defray the costs of administration and inspection. Such charge shall be assessed and collected prior to issuance of a permit to connect, in amounts as follows:

137.6.4.1. For each one-family dwelling or mobile home, the amount of the permit charge shall be twenty dollars ($20.00).

137.6.4.2. For each commercial or industrial premises and for each two-family dwelling or multiple dwelling, the amount of the permit charge shall be twenty dollars ($20.00) for the first fifteen (15) fixture unit equivalents, as in Section **137.5.13.**, and twenty dollars ($20.00) for each additional fifteen (15) fixture unit equivalents or portions thereof.

137.6.5. Plant Investment Fee.

137.6.5.1. A plant investment fee shall be assessed for each new connection to the wastewater system of the Town to partially defray the costs of capital improvement of such system. Such charge shall be collected prior to issuance of a building permit in amounts as follows:

137.6.5.1.1. For each residential wastewater service:

- Inside corporate limits $1,000.00
- Outside corporate limits $2,000.00

137.6.5.1.2. For each dwelling unit of all common wall multi-family residential construction, which may be described as an apartment, condominium, townhouse, stacked housing or other name form for multi-family housing, permanent or transient, and for each dwelling unit in a mobile home park, which shall be collected prior to issuance of a building permit.

- Inside corporate limits $1,000.00
- Outside corporate limits $2,000.00

137.6.5.1.3. Each commercial, restaurant, or industrial wastewater service shall be charged at the effective rate for single-family wastewater service, as defined above, for each fifteen (15) fixture unit equivalents, as in Section **137.5.13.**

137.6.5.1.4. Each service connection in a mobile home subdivision shall be charged at the effective rate for single-family wastewater service, as defined above.

137.6.5.2. The charges provided herein shall only be increased by the same percentage as the charge for each single-family wastewater service is increased and shall be effective upon such increase.

137.6.5.3. Payment of the wastewater system development charges provided herein shall be payable in full in cash at the time the building permit is issued or as directed by the Board of Trustees. Such charges shall not be waived for any governmental, quasi-governmental, nonprofit organization, or any other user requesting connection to the wastewater supply system of the Town without Board of Trustee approval.

137.6.5.4. Requests for a refund of charges paid under this Section shall be made in writing to the Superintendent within nine months of payment.

137.6.6. Recovery Agreement Charge.

A recovery agreement charge may be assessed for each connection to a collection line or use of a pumping facility, where such line or facility is the subject of a recovery agreement between the Town and the person who constructed such line or facility. Consistent with such agreements, such charge shall be in an amount which represents a pro rata share of the cost of construction of the line or facility and shall be collected prior to issuance of a building permit. Recovery agreements existing on the effective date of this Article shall remain in full force and effect.

137.6.7. Basis For Rates and Charge.

137.6.7.1. Basis for Wastewater Service Charges:

137.6.7.1.1. Residential. The amount of water billed for the January billing period of each year shall be the basis for determination of the monthly wastewater charge. In the case of new users, users not using Town water or changing service conditions, the Superintendent may designate an alternative base consumption period. The consumption established during any base period shall be used for the determination of monthly wastewater user charges until a new base consumption period occurs as provided herein.

137.6.7.1.2. All Other. All nonresidential customers shall be billed based on actual water consumption for each billing period. The actual water consumption may be adjusted as determined by the Superintendent as follows:

137.6.7.1.2.1. Irrigation Allowance. Nonresidential users with one thousand (1,000) square feet or more of irrigated property shall be given an irrigation allowance based on the number of one hundred (100) square feet increments of irrigated property. The user must make application to the Superintendent for the credit. Application shall include an accurate accounting of irrigated property. The Superintendent shall confirm the property is under irrigation. The irrigation credit per one hundred (100) square feet if computed at the rate of 500 gallons of water per month for a six (6) month irrigation season extending from May through October, inclusive. The computed irrigation allowance shall be deducted from the monthly water volume for calculating the wastewater charge.

137.6.7.1.2.2. The suspension of water service and charges therefor for any premises shall relieve such premises from the payment of the monthly wastewater service charges hereby imposed during the period that no charges are made for water.

137.6.8. Computation of Rates and Charges.

(Amended by Ordinance No. 434 on December 16, 1999; Amended December 4, 2008 by Ordinance No. 527; Amended November 5, 2009 by Ordinance No. 535.)

137.6.8.1. The rates and charges computed on the basis of water used as set forth in Section **137.6.7.** shall be as follows:

137.6.8.1.1. Base Customer Charge - $6.83/month.

137.6.8.1.2. Normal treatment charge (excluding restaurants): minimum 6,000 gallons at rate of $0.605 per 1,000 gallons or $3.63 per month. All water consumed in excess of the 6,000-gallon-per-month minimum as established in Section **137**.6.8.2. shall be subject to a $0.605 per 1,000 gallon surcharge for normal treatment.

137.6.8.1.3. Customers located outside the Town limits shall be charged two times the rates shown in this section for normal treatment.

137.6.8.2. Residential customers not connected to the Town's water distribution system shall be billed for a quantity of 6,000 gallons per month on a monthly basis and at the rates in section **137.6.8.1.**

137.6.8.3. Commercial users not connected to the Town's water distribution system shall be billed based on the method prescribed by the Superintendent as representative of the user's wastewater contribution volume and at the rates in subsection **137.6.8.1.**

137.6.8.4. Significant Industrial User Surcharge: In addition to the rates and charges imposed by sections **137.6.8.1.**, **137.6.8.2.**, and **137.6.8.3.**, significant industrial users will be assessed a surcharge for extra strength wastewater discharges. Significant industrial users located within and without the Town, which discharge Biochemical Oxygen Demand (BOD) which exceeds the normal domestic strength BOD (280 mg/l) will be assessed a surcharge as determined by the Superintendent.

137.6.8.4.1. The total BOD surcharge is computed by the following formula:

- S = a x b x c
- S = BOD, surcharge amount
- a = Normal domestic BOD rate per 1,000 gallons
- b = % by which the classification average discharge BOD exceeds the normal domestic discharge BOD (280 mg/l)
- c = Water volume used to calculate the wastewater user charge.

137.6.8.4.2. The Biochemical Oxygen Demand (BOD) quantity charge is $0.437 per 1,000 gallons for normal domestic sewage.

137.6.8.5. Restaurant Surcharge: In addition to the base customer charge imposed by section **137.6.8.1.1.**, restaurants shall also be assessed a normal treatment charge as follows: minimum 6,000 gallons at rate of $0.928 per 1,000 gallons or $5.57 per month. All water consumed in excess of the 6,000-gallon-per-month minimum as established in Section **137.6.8.** shall be subject to a $0.928 per 1,000 gallon surcharge for normal treatment.

137.6.8.6. Fast Food Restaurant Surcharge: In addition to the base customer charge imposed by section **137.6.8.1.**, fast food restaurants shall be assessed a normal treatment charge as follows: minimum 6,000 gallons at the rate of $0.746 per 1,000 gallons or $4.47 per month. All water consumed in excess of the 6,000-gallon-per-month minimum as established in Section **137.6.8.** shall be subject to a $0.746 per 1,000 gallon surcharge for normal treatment.

137.6.8.7. On an annual basis, these rates shall be adjusted by the amount of the previous year's Denver-Boulder Consumer Price Index with no further action of the Board of Trustees. The annual adjustment will take place in the January billing beginning in 2011.

137.6.9. Special Rates and Charges.

137.6.9.1. Discounts. None.

137.6.9.2. Contract Rates. In the case of organized sewer district, municipal corporations or other similar users of the wastewater treatment system which are furnished wastewater treatment service pursuant to contract, the rates and charges for the use of the wastewater treatment system shall be as specified in said contracts so long as said contracts or renewals thereof remain enforce and effect.

137.6.9.3. Tertiary Water Charges. The Town may dispense non-potable tertiary water as such waters are available. Such waters shall be dispensed only at pressures, in quantities, and at times as determined by the Superintendent. The charges for such waters shall be as established by resolution of the Board of Trustees.

137.6.10. Collection Procedures.

(Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

137.7. Individual Wastewater Disposal Systems.

137.7.1. Conditions for Use.

137.7.1.1. Where a collection line is not available to premises under the provisions established in thiscode, the wastewater disposal system facilities of such premises shall be connected to an individual wastewater disposal system complying with the provisions of this code and the Lincoln County - State Health Individual Sewage Disposal System Regulations as established by the Colorado Department of Health.

137.7.1.2. The type, capacity, location and layout of an individual wastewater disposal system shall comply with all standards of the Colorado Department of Health. No permits shall be issued for any individual wastewater disposal system employing subsurface soil absorption facilities where the area of the lot does not meet the regulations imposed by the Health Department. No septic tank or existing cesspool shall be permitted to discharge into any natural waterway or surface drainage.

137.7.1.3. Before commencement of construction of an individual wastewater disposal system on public or private property within the Town or in any area under the jurisdiction of the Town, the owner shall first obtain written approval signed by the Superintendent and by a representative of the Health Department.

137.7.2. Privy Vaults Prohibited.

It shall be unlawful for any person to construct or maintain a privy vault or receptacle for wastewater disposal or similar device within the limits of the Town and in all instances where such devices are now in use the owner or occupant of such premises shall discontinue the use thereof and install a proper service line or individual wastewater disposal system in accordance with the provisions of this code.

137.7.3. Removal of Contents.

The contents of privy vaults, septic tanks or cesspools within the limits of the Town shall not be removed therefrom, nor shall the same be transported through any street, alley or public place within the Town, except in a sanitary manner, through or by means of airtight tanks, if soft and mixed with matter, and if solid or dry, in tight covered tanks in such manner as shall prevent the escape of any noxious gases or offensive odors, and preserve such contents from sight or exposure during transportation. All tools, appliances and vehicles used in such cleaning and removal shall be kept and maintained in sanitary condition and shall be subject to inspection and licensing by the Department of Health.

137.7.4. Designation of Dumping Grounds.

The Board of Trustees shall, with the concurrence and approval of the Department of Health, within the boundaries of the Town, designate the dumping grounds within and upon which any wastewater residue, solid or soft matter or other matter of any kind removed from a cesspool or individual wastewater disposal system may be dumped or otherwise disposed.

137.7.5. Cessation of Use: When Required.

When a collection line becomes available to a property served by an individual wastewater disposal system, and upon receipt of official notice from the Superintendent to connect to the wastewater system of the Town, a direct connection shall be made by master plumber to the collection line in compliance with this code and the official notice, and any septic tanks, cesspools, and similar individual wastewater disposal systems shall be cleaned and filled with suitable material with approval of the Department of Health.

137.8. Prohibitions and Limitations on Wastewater Discharge.

137.8.1. Wastewater Discharge: Treatment Required.

It shall be unlawful for any person to discharge into any natural waterway or any surface drainage within the Town, or in any area under the jurisdiction of the Town, any wastewater unless suitable treatment of such wastewater has been provided in accordance with the provisions of this Article.

137.8.2. Wastewater Discharge: Prohibitions.

It shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system of the Town any wastewater which contains the following:

137.8.2.1. Storm Water Drainage: from ground surface, roof headers, catch basins, unroofed area drains or any other source. Also specifically prohibited is water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction.

137.8.2.2. Inert Suspended Solids: or other inert particulate matter such as, but not limited to, fullers earth, lime slurries and paint residues, resulting in wastewater with a settleable solids concentration greater than twenty-five (25) milliliters per liter.

137.8.2.3. Unusual Concentration of Dissolved Solids;, such as but not limited to, chloride greater than ten thousand (10,000) mg/l and sulfate greater than one thousand (1,000) mg/l. The Superintendent may reject other unusually high concentrations upon determination that they are incompatible pollutants.

137.8.2.4. Oil and Grease; of the following concentrations, sources or nature:

137.8.2.4.1. Wastewater containing total grease and oil in excess of one hundred (100) mg/l concentration as measured by Soxhlet extraction set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater or U.S. EPA Manual of Methods for Chemical Analysis of Water and Wastes.

137.8.2.4.2. Wastewater containing more than twenty-five (25) mg/l petroleum, as measured as hydrocarbons by Soxhlet extraction, or other approved methods set out in Standard Methods for the Examination of Water and Wastewater. Evidence of oil or grease in wastewater shall be based upon instantaneous or "grab" samples.

137.8.2.5. Explosive Mixtures. consisting of liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into

the wastewater system be more than five percent (5%), nor may any single reading be over ten percent (10%) of the lower explosive limit (L.E.L.) of the meter.

137.8.2.5.1. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

137.8.2.6. Noxious Material; consisting of noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into any portion of the wastewater system for its maintenance and repair.

137.8.2.7. Improperly Shredded Garbage; that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the wastewater system, with no particle greater than one-half inch (1/2") in any dimension.

137.8.2.8. Radioactive Wastes or Isotopes, of a half-life or concentration that they do not meet regulations set forth by the Colorado Department of Health, State of Colorado, in the latest edition of Rules and Regulations Pertaining to Radiological Control.

137.8.2.9. Solid or Viscous Wastes, which will or may cause obstruction to the flow in a collection line or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to: grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing fuel or lubrication oil and similar substances.

137.8.2.10. Toxic Substances, in amounts exceeding standards promulgated by the Administrator of the United States Environmental Protection Agency pursuant to Section 307 (a) of the Act, and chemical elements of compounds, phenols or other taste- or odor-producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system or which will be transmitted through the system to receiving water.

137.8.2.11. Substances Which are not Amenable to Treatment: of prescribed reduction by the treatment process employed by the Town, or are amenable to such a limited degree of reduction that a discharge of such wastewater would result in effluent discharge from the treatment works that does not meet requirements of State, Federal and other agencies having jurisdiction over discharge or application to receiving waters and/or lands.

137.8.2.12. Wastes with Color; not removable by the treatment process.

137.8.2.13. Corrosive Wastes; which will cause corrosion or other deterioration of the wastewater treatment system. All wastewater discharged into the wastewater system must have an instantaneous pH value in the range of five and one-half (5.5) to ten (10) standard units inclusive and must have a temperature not exceeding one hundred fifty degrees (150º) Fahrenheit.

137.8.3. Wastewater Discharge Limitations:

137.8.3.1. It shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited, any waste or wastewater which fails to comply with the limitations imposed by this Section.

137.8.3.2. Consistent with the provisions of the Act, no discharger into the wastewater treatment system shall augment his use of process water or otherwise dilute his discharge as a partial or complete substitute for adequate treatment to achieve compliance with these standards.

137.8.3.3. As used in this Section, the following terms shall have the meanings designated herein:

137.8.3.3.1. Total Metal: the sum of the concentrations of copper (Cu), nickel (Ni), total chromium (Cr) and zinc (Zn).

137.8.3.3.2. Discharge Rate: that volume of effluent from the user which has been determined by the Superintendent to be representative of process effluent from that user.

137.8.3.4. For users with a discharge rate of less than ten thousand (10,000) gallons per average operating day, the following limitations on the next page shall apply, except that at no time shall the maximum concentration exceed two (2) times the maximum average concentration per operating day:

Pollutant Property (milligrams/liter)	Maximum Average Concentration Pollutant or Per Operating Day
CN (Cyanide), amenable to chlorination)	2.0
Cr-(6) (Hexavalent Chromium)	0.25
Pb (Lead)	0.8
Cd (Cadmium)	1.0
BOD	1420

137.8.3.5. For users with a discharge rate of greater than ten thousand (10,000) gallons per average operating day, the following limitations shall apply, except that at no time shall the maximum concentration exceed two (2) times the maximum average concentration per operating day.

Pollutant/Pollutant Property (milligrams/liter)	Maximum Average Concentration (Per Operating Day)
CN (Cyanide), amenable to chlorination)	2.0
CN (Cyanide), total	0.64
Cr-(6) (Hexavalent Chromium)	0.25
Cu (Copper)	4.60
Ni (Nickel)	3.60
Cr (Chromate), total	4.20
Zn (Zinc)	3.40
Pb (Lead)	0.8
Cd (Cadmium)	1.0
Total Metal	7.5
BOD	1420.0

137.8.3.6. For all users, the following maximum concentrations on the next column shall apply:

Toxicant (milligrams/liter)	Maximum Concentration At Any Time
Arsenic	0.1
Barium	5.0
Beryllium	1.0
Boron	1.0
Chlorinated Hydrocarbons (including, but not limited to, pesticides, herbicides, and algaecide)	.02
Cresols	2.0
Fluorides	25.0
Formaldehyde	5.0
Manganese	1.0
Mercury	0.05
Organic Solvents	50.0
Phenols	1.0
Selenium	2.0

137.8.3.7. Effluent limitations and pretreatment standards promulgated pursuant to the Act shall apply in any instance where they are more stringent than those in this Section. Subsequent limitations shall apply as promulgated in accordance with the Act. The Town shall endeavor to give reasonable notice of the applicability of such standards and limitations to users potentially affected thereby.

137.8.4. Limitations on Point of Discharge.

137.8.4.1. It shall be unlawful for any person to discharge any substance directly into a manhole or other opening in the wastewater treatment system other than through an approved service line.

137.8.4.2. Liquid wastes from septic tanks, chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the wastewater system except at locations authorized by the Superintendent to collect such wastes within the Town.

137.8.4.3. It shall be unlawful for any person to discharge cooling waters or process waters to a storm sewer or natural outlet.

137.8.5. Disposal Limitations.

137.8.5.1. It shall be unlawful for any person to dispose of wastes at the disposal facilities of the Town where such wastes have been collected and/or held in a tank or other container and where such wastes fail to comply with any limitation set out in section **137.6.8.**

137.8.5.2. The Town shall endeavor to identify and compile a record of those sources which produce or may produce wastes which are or may be in violation of the limitations imposed by this Section and any such record shall be available to any person during normal business hours. However, the limitations imposed by this Section

shall apply without regard to the existence, substance or availability of any such record.

137.9. Control of Prohibited Wastes.

137.9.1. Regulatory Actions: Specific Powers of Superintendent.

If wastewaters containing any substance described in section **137.6.8.** are discharged or proposed to be discharged into the wastewater system of the Town or to any wastewater system tributary thereto, the Superintendent may take any action necessary to:

137.9.1.1. Prohibit the discharge of such wastewater;

137.9.1.2. Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this code;

137.9.1.3. Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the objectionable characteristics or substance so that the discharge will not violate this code;

137.9.1.4. Require the person making, causing or allowing the discharge to pay any additional cost or expense incurred by the Town for handling and treating excess loads imposed on the wastewater treatment system; or

137.9.1.5. Take such other or further remedial action as may be deemed to be desirable or necessary to achieve the purposes of this code.

137.9.2. Regulatory Actions: General Powers of Superintendent.

137.9.2.1. Any actual or threatened discharge of wastewater containing substances limited or prohibited by this code into the wastewater treatment system of the Town which, by the determination of the Superintendent, presents an imminent or substantial endangerment to the health or welfare of persons or to the environment, or which causes interference with the normal operation of the wastewater treatment system, may be immediately halted or eliminated by the Superintendent. The Superintendent may halt or eliminate such discharges by means of any procedure or measure authorized by this code for enforcement of discharge limitations and prohibitions, or by means of physical disconnection from the wastewater treatment system or other discontinuance of wastewater treatment service. Such discharges may be halted or eliminated without regard to the compliance of the discharge with other provisions of this code.

137.9.2.2. If the Town is fined by the State or Federal governments for any violation of its CDPS permit or violation of water quality standards as the result of a spill, intentional sludge discharge of a toxic pollutant or discharge of wastewater containing substances limited or prohibited by this code into the wastewater treatment system of the Town, then the fine, including all of the Town's legal, sampling, and analytical testing cost and any other related costs shall be charged to the responsible user.

137.9.3. Pretreatment Facilities: Submission of Plans.

Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, plan, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the Superintendent for review and approval. Such approval shall not exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Such approval shall not be constructed as or act as a guaranty or assurance that any discharge is or will be in compliance with any applicable code, ordinance, rule, regulations, or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the Superintendent.

137.9.4. Pretreatment Facilities – Operations.

If pretreatment or control of wastewater waste flow is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of this code and all other applicable codes, ordinances, laws, rules and regulations.

137.9.5. Admission to Property.

Whenever it shall be necessary for the purposes of this code, the Superintendent, upon the presentation of credentials, may enter upon any property or premises at reasonable times, including at any time during the operating day of the use, for the purposes of:

137.9.5.1. Copying any records required to be kept under the provisions of this code.

137.9.5.2. Inspecting any monitoring equipment or method, and/or

137.9.5.3. Sampling any discharge of wastewater into the wastewater treatment system.

137.9.5.4. The occupant of such property or premises shall render all proper assistance in such activities.

137.9.6. Protection from Accidental Discharge.

Each industrial user shall provide adequate protection as approved by the Superintendent from accidental discharge of prohibited materials of other wastes regulated by this code. Facilities and procedures to prevent accidental discharge of prohibited materials shall be provide and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to proved this protection shall be submitted to the Superintendent for review, and shall be approved by him before installation of the accidental discharge protection. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify this facility as necessary to meet the requirements of this code.

137.9.7. Report Required for Accidental Discharge.

If a facility has an accidental sludge discharge, the owner or user of the facility responsible for such discharge shall immediately notify the Superintendent so that corrective action may be undertaken to protect the wastewater treatment system. In addition, a written report addressed to the Superintendent detailing the date, time and cause of the accidental discharge and corrective action taken to prevent future discharges, shall be filed by the responsible person within five (5) days of the occurrence of the noncomplying discharge.

137.9.8. Failure to Report Accidental Discharge.

If shall be unlawful for any person to fail to report any accidental discharge which violates the prohibitions and limitations of this code, as provided in Section **137.9.7.**

137.10. (Deleted in its Entirety)

(Deleted on March 6, 2003 by Ordinance No. 480)

137.11. (Deleted in its Entirety)

(Deleted on March 6, 2003 by Ordinance No. 480)

137.12. Enforcement and Penalties.

137.12.1. Notification of Violation.

Whenever the Superintendent finds that any person has violated or is violating this code, or any prohibition, limitation or requirement contained herein, he may serve upon such person a written notice stating the nature of the violation and providing a reasonable time, not to exceed thirty (30) days, for the satisfactory correction thereof. A meeting with the Superintendent may be scheduled at the request of the violating person or Superintendent to discuss the violation and/or satisfactory correction schedule.

137.12.2. Show Cause Hearing.

137.12.2.1. Upon a finding by the Superintendent that a person has caused or permitted an unauthorized discharge or that any such unauthorized discharge has not been corrected by timely compliance with a correction schedule, whether with or without a meeting with the Superintendent, the Superintendent may order any person who causes or allows such unauthorized discharge to show cause before the Board of Trustees why service should not be terminated. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the Board of Trustees regarding the violation, and directing the offending party to show cause before the Board of Trustees why an order should not be made directing the termination of service. The notice of the hearing shall be served personally or by certified mail at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

137.12.2.2. The Board of Trustees may conduct the hearing and take the evidence, or may designate a representative to:

137.12.2.2.1. Issue in the name of the Board of Trustees notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearings;

137.12.2.2.2. Take the evidence;

137.12.2.2.3. Transmit a report of the evidence and hearing to the Board of Trustees, including transcripts and other evidence, together with recommendations for action thereon.

137.12.2.3. At any public hearings, testimony taken before the hearing authority or any person

designated by it, shall be under oath and recorded electronically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

137.12.2.4. Upon review of the evidence by the Board of Trustees, the Board shall make written findings of fact. Thereupon the Board may:

137.12.2.4.1. Issue an order stating that no unauthorized discharge has occurred and directing that service shall not be terminated therefor;

137.12.2.4.2. Issue an order stating that an unauthorized discharge has occurred and directing that, following a specified time period, the wastewater treatment service of the offending party be discontinued unless:

137.12.2.4.2.1. Adequate treatment facilities, devices or other appurtenances shall have been installed, or

137.12.2.4.2.2. Existing treatment facilities, devices or other appurtenances are properly operated or maintained; or

137.12.2.4.3. Issue such other or further orders and directives as are necessary and appropriate.

137.12.2.5. Any party to the hearing aggrieved or adversely affected by an order of the Board of Trustees may appeal such order to the District Court in and for the County of Lincoln, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

137.12.3. Remedies.

137.12.3.1. Legal Action Authorized: If any user discharges into the Town's wastewater treatment system contrary to the provisions of section **137**, Federal or State pretreatment requirements, or any order of the Town, the Town's attorney may commence an action for appropriate legal and/or equitable relief, including a petition in a court of competent jurisdiction for a temporary restraining order, preliminary and permanent injunction against the violation.

137.12.3.2. Termination of Service: The Town may terminate or cause to be terminated wastewater treatment service to any user for a violation of any provisions herein.

137.12.3.3. Civil Liability for Expenses: Any person violating the provisions herein shall be liable for any expense, loss or damage caused the Town by reason of such violation, including the increased costs, if any, for managing effluent and/or sludge, when such increases are the result of the user's discharge of toxic pollutants. The Superintendent shall add such charge to the discharger's user charge.

137.12.3.4. Civil Fine Pass Through: In the event that a user discharging such pollutants which cause the Town to violate any condition of its CDPS permit and the Town is fined by EPA or the State for such violation, then such user shall be fully liable for the total amount of the fine assessed against the Town by EPA and/or the State.

137.12.3.5. Penalties for Violation. Any person who violates the provisions of this Chapter shall be subject to a fine of not more than Five Hundred Dollars ($500.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

137.12.3.6. Appropriate Penalties: In addition to the penalties provided herein, the Town may recover reasonable attorneys' fees, court costs, court reporter's fees, and other expenses of litigation by appropriate legal action against the user found to have violated any provisions herein, or the orders, rules, regulations, and permits issued hereunder. The attorney for the Town, upon request of the Town Board, shall petition the District Court to impose, assess, and recover such sums.

137.12.3.7. Penalties for Falsifying Information. Any user who knowingly makes false statements, representations or certifications in any application, record, report plan or other document files or required to be maintained pursuant hereto, or pursuant to its wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required herein shall, upon conviction, be subject to a fine of not more than Five Hundred Dollars ($500.00).

137.12.4. Disclosure: Availability to Public.

Except as otherwise provided in this code, all records, reports, data or other information supplied by any person as a result of any disclosure required by this code shall be available for public inspection.

137.12.5. Confidentiality of Trade Secrets.

137.12.5.1. The provisions of section **137.12.3.** shall not be applicable to any information designated as a trade secret by the person supplying such information.

Material designated as a trade secret may include, but shall not be limited to, processes, operations, style of work or apparatus of confidential commercial or statistical data.

137.12.5.2. Information designated as a trade secret pursuant to Section **137.12.5.1.** shall remain confidential and shall not be subject to public inspection. Such information shall be available only to officers, employees or authorized representatives of the Town charged with enforcing the provisions of this code.

137.12.5.3. It shall be unlawful for any officer, employee or authorized representative of the Town to divulge in any manner or to any extent not authorized by judicial order or other provision of law information supplied pursuant to any requirement of this code, when such information has been designated as a trade secret pursuant to Section **137.12.5.1.** In addition to any other penalties that may be imposed, any officer, employee or authorized representative of the Town who violates the provisions of this section shall be subject to discharge from the employ of the Town.

137.13. Effective Date.

137.13.1. Rates and Charges.

In order to accommodate the Town's billing cycle for Wastewater Service Charges, the provisions of Article VI Sections **137.6.**, **137.7.**, **137.8.**, and **137.9.** code shall become effective beginning with those Wastewater Service Charges which will be billed by the Town to the user during the month of August, 1989.

138 - Boards and Commissions

138.1. Library Board

138.1.1. Library Board of Trustees.

The management and control of the Library shall be vested in a board of five Trustees who shall be appointed by the Mayor with the consent of the Board of Trustees of the Town of Limon. The first appointments of such Board of Trustees shall be for terms of one, two, three, four and five years, respectively, and thereafter a Trustee shall be appointed annually to serve for five years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. A library trustee may be removed only by vote of the Town Board.

138.1.2. The board of trustees of the library, immediately after their appointment, shall meet and organize by the election of a president and a secretary and such other officers as they may deem necessary. The board of trustees of the library shall have the power to:

138.1.2.1. Adopt such by-laws, rules and regulations for their own guidance and for the government of the library as they deem expedient;

138.1.2.2. Have supervision, care and custody of all property of the library, including rooms or buildings constructed, leased or set apart therefor;

138.1.2.3. Employ a librarian, and upon his recommendation, employ such other employees as may be necessary, prescribe their duties and fix their compensation;

138.1.2.4. Submit annually a budget as required by law, and certify to the Town of Limon the sums necessary to maintain and operate the library during the ensuing year;

138.1.2.5. Have exclusive control of the disbursement of the finances of the library;

138.1.2.6. Accept such gifts of money or property for library purposes as they deem expedient;

138.1.2.7. Hold and acquire land by gift, lease or purchase, for library purposes;

138.1.2.8. Lease, purchase or erect any appropriate building or buildings for library purposes, and acquire such other property as may be needed therefor;

138.1.2.9. Purchase books, periodicals, maps, supplies, and materials for the library on the recommendation of the librarian; and

138.1.2.10. Do all other acts necessary for the orderly and efficient management and control of the library.

138.1.3. Finance.

The Board of Trustees of the Town of Limon, Colorado shall levy a tax, not to exceed one and a half mills on the dollar of assessed valuation upon all

property, real, personal, or mixed, within the boundaries of the Town of Limon, Colorado, the revenue from which assessment shall be placed to the credit of "The Library Fund" and shall be kept separate and apart from all other moneys of the Town of Limon, to be drawn upon by the Town Treasurer only upon presentation of properly authenticated vouchers of the Board of Trustees of the library.

138.1.4. Destruction of Library Property.

If any person shall wilfully or maliciously, or wantonly and without cause, write in or upon, or injure, deface, tear or destroy any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, or manuscript belonging to said library, he shall be deemed guilty of an offense, and shall be, upon conviction thereof, be punished by a fine of not more than Twenty-Five Dollars for each and every offense.

138.1.5. Failure to Return Books.

Any person who shall fail to return any book belonging to said library, according to the by-laws duly made and adopted by said Library Board, shall be fined not less than one dollar nor more than ten dollars for each and every offense.

138.1.6. Rules and Regulations.

The said Library Board shall have the power to adopt such rules and regulations as they shall deem necessary to govern and prescribe the use of the public library and its facilities by the public, and the violation of any such rules and regulations shall be deemed a violation of this code.

138.2. CEMETERY BOARD.

HISTORY: Amended entirely on March 3, 1994 by Ordinance 374

138.2.1 Board of Trustees.

A five member Board of Trustees shall be appointed by the Mayor with the consent of the Board of Trustees of the Town of Limon. The first appointments of such cemetery Trustees shall be for terms of one, two, three, four, and five years, respectively, and thereafter a Trustee shall be appointed annually to serve five years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. A cemetery Trustee may be removed only by vote of the Board of Trustees of the Town of Limon.

138.2.2 Organization and Powers.

The Board of Trustees of the cemetery, immediately after their appointment, and annually thereafter shall meet and organize by the election of a president and a secretary and such other officers as they may deem necessary. The Board of Trustees of the cemetery shall have the power to:

138.2.2.1. Adopt such by-laws, rules and regulations for their own governance and for the government of the cemetery as they deem expedient;

138.2.2.2. Submit annually a budget and capital improvements plan to the Town of Limon identifying the sums necessary to maintain and operate the cemetery during the budgetary year;

138.2.2.3. Accept such gifts of money for cemetery purposes as they deem expedient;

138.2.3. Town of Limon Responsibilities.

Under the supervision of the Town Manager, the Town of Limon shall:

(Amended on June 6, 1996 by Ordinance No. 398)

138.2.3.1. Provide all materials, supplies and labor for the maintenance and upkeep of the cemetery within the limits established by the General Fund Budget;

138.2.3.2. Coordinate with the Board of Trustees of the Cemetery to plan and carry out a capital improvements plan.

138.2.4. Finance.

The Board of Trustees of the Town of Limon shall levy a tax, not to exceed one mill on the dollar of assessed valuation upon all property, real, personal, or mixed within the boundaries of the Town of Limon, Colorado, the revenue from which assessment shall be placed to the credit of General Fund and budgeted for use in the Cemetery Department.

138.2.5. Perpetual Care.

The Board of Trustees of the Cemetery may allocate funds from any source to a "Cemetery Perpetual Care Fund" to be kept separate and apart from any other monies of the Town. The Board of Trustees of the Cemetery shall determine how these funds shall be allocated and included in a capital improvements plan.

138.2.6. Sale of Lots.

The Board of Trustees of the Cemetery shall sell or cause to be sold lots or a lot to any person applying for the purchase of the same. The Board of Trustees of the Cemetery shall have the authority to set the cost for said lots as well as to determine the percentage of sale that will go to the General Fund for Cemetery use and the percentage of the sale that shall be deposited in the Cemetery Perpetual Care Fund.

138.2.7. Name of Cemetery.

From this day forth, the said cemetery shall be designated under the name of "Pershing Memorial Cemetery".

138.3. Parks and Recreation Board.

(Deleted in its entirety by Ordinance No. 380 on October 6, 1994)

138.4. Planning Commission.

HISTORY: Ordinance No. PHA1 adopted June 3, 1965; Amended April 6, 1995 by Ordinance No. 386.

138.4.1. There is herewith created for the Town of Limon, Lincoln County, Colorado, a Planning Commission in pursuance of the Planning Commission Law for Towns and Cities, Chapter 31, Article 23, Part 2, Colorado Revised Statues.

138.4.2. The commission shall consist of seven members: there shall be the two ex-officio members consisting of the Mayor, a member of the Board of Trustees to be selected by said Board and five other persons as appointed by the Mayor. All members shall be bona fide members and residents of the municipality and if any member ceases to reside in such municipality his membership on said commission shall immediately terminate. All members of the commission shall serve as such without compensation and the appointed members shall hold no other municipal office except that one such appointed member may be a member of the zoning board of adjustment or appeals.

138.4.3. The terms of the ex-officio members shall correspond to their respective official tenures.

138.4.4. The term of each appointed member shall be six years or until his successor takes office, except that respective terms of one member first appointed shall be for two, two members first appointed shall be for four years and two members first appointed shall be six years. Members, other than the member representing the Board of Trustees, may be removed, after public hearings, by the Mayor for inefficiency, neglect of duty, or malfeasance in office, and the Board of Trustees may remove the member representing it for the same reasons. The Mayor, or Board of Trustees, as the case may be, shall file a written statement of reasons for such removal.

138.4.5. Vacancies occurring otherwise than through the expiration of a term shall be filled for the remainder of the unexpired term by the Mayor in the case of members selected or appointed by him, by the Board of Trustees in the case of the Trustee member selected by it.

138.4.6. The commission shall select its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of the chairman shall be one year with eligibility for re-election. The commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

138.4.7. The Board of Trustees shall provide the funds, equipment and accommodations necessary for the work of the commission, but the expenditures of the commission, exclusive of gifts, shall be within the amounts specified and appropriated for this purpose by the Board; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

138.4.8. It shall be the purpose and duty of the commission to make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries subject to the approval of the legislative or governing body having jurisdiction thereof, which in the commission's judgment, bear relation to the planning of such municipality. Such plan, with the accompanying maps, plats, charts and descriptive matter, shall show the commission's recommendations for the development of said territory. And, further, to do each and every thing reasonably necessary and proper to accomplish such purposes and duties.

139 - Disposition of Unclaimed Property

HISTORY: Added June 25, 1992 by Ordinance No. 362

139.1. Purpose.

The purpose of this code is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the Town of Limon.

139.2. Definitions. Unless otherwise required by context or use, words and terms shall be defined as follows:

139.2.1. Unclaimed property: any tangible or intangible property, including any income or increment derived there from, less any lawful charges, that is held by or under the control of the Town of Limon and which has not been claimed by its owner for a period of more than one year after it became payable or distributable.

139.2.2. Municipality:" the Town of Limon, Colorado.

139.2.3. Owner: a person or entity, including a corporation, partnership, association, governmental entity other than this municipality, or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the municipality.

139.2.4. Town Clerk: the Officer responsible for administration of this code or designee thereof.

139.3. Procedure for disposition of property.

139.3.1. Prior to disposition of any unclaimed property having an estimated value of $50.00 or more, the Town Clerk shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the municipal department or agency holding the property. The notice shall include a description of the property, the amount or estimated value of the property, and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town Clerk with a written claim for the return of the property within sixty (60) days of the date of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

139.3.2. Prior to disposition of any unclaimed property having an estimated value of less than $50.00 or having no last known address of the owner, the Town Clerk shall cause a notice to be published in a newspaper of general circulation in the municipality. The notice shall include a description of the property, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town Clerk with a written claim for the return of the property within sixty (60) days of the date of publication of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

139.3.3. If the Town Clerk receives no written claim within the above sixty (60) day claim period, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

139.3.4. If the Town Clerk receives a written claim within the sixty (60) day claim period, the Town Clerk shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part.

139.3.5. The Town Clerk may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

139.3.6. In the event that there is more than one claimant for the same property, the Town Clerk may, in the Town Clerk's sole discretion, resolve said claims, or may resolve such claims by depositing the disputed property with the registry of the District Court in an interpleader action.

139.3.7. In the event that all claims filed are denied, the property shall become the sole property of the municipality and any claim of the owner of such property shall be deemed forfeited.

139.3.8. Any legal action filed challenging a decision of the Town Clerk shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Town Clerk pursuant to the order of the Court having jurisdiction over such claim.

139.3.9. The Town Clerk is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this code, including compliance requirements for other municipal officers and employees in the identification and disposition of such property.

139.4. Sale of unclaimed property.

Sale or disposition of unclaimed property shall be at the discretion of the Board of Trustees of the municipality, based upon recommendation of the Town Clerk.

140 – Court

141 - Organization of Limon Municipal Court

HISTORY: 1958 Municipal Code - Amended entirely on March 3, 1994 by Ordinance No. 375

141.1. Establishment of Court; Term, Appointment, and Removal of Municipal Judge.

141.1.1 A Municipal Court shall be and hereby is created and established as a "qualified municipal court of record" pursuant to the provisions of Colorado Revised Statutes. In all operations of the Municipal Court, a verbatim record of the proceedings and evidence at trial shall be kept by either electric devices or stenographic means. The Municipal Court is created to hear and try all alleged violations of the Town Code and ordinance provisions.

141.1.2 The Municipal Court shall be presided over by a municipal judge who shall be appointed by the municipal governing body for a specified term of not less than two years and who may be reappointed for a subsequent term; except that the initial appointment under this section may be for a term of office which expires on the date of the next election of the municipal governing body. Any vacancy in the office of municipal judge shall be filled by appointment of the municipal governing body for the remainder of the unexpired term. The municipal judge shall be duly qualified and admitted to, and currently licensed in, the practice of law in the State of Colorado.

141.1.3 A municipal judge may be removed during his or her term of office only for cause. A judge may be removed for cause if:

141.1.3.1. He or She is found guilty of a felony or any other crime involving moral turpitude;

141.1.3.2. He or She has a disability which interferes with the performance of his or her duties and which is or is likely to become of a permanent character;

141.1.3.3. He or She has willfully or persistently failed to perform his or her duties;

141.1.3.4. He or she is habitually intemperate;

141.2. Municipal Judge Compensation.

The salary of the municipal judge shall be a fixed annual compensation payable upon a monthly basis as determined by the Town Board and as established by Resolution.

141.3. CLERK OF THE MUNICIPAL COURT.

141.3.1 The position of clerk of the Municipal Court is hereby established by the Town Board, said clerk to be appointed by the presiding Municipal Judge. However, if the Town Board determines that the business of the Municipal Court is insufficient to warrant a separate full-time or part-time clerk, the Town Board may designate the municipal judge to serve as ex officio clerk.

141.3.2 The clerk of the Municipal Court shall have such duties as are delegated to him or her by law, court rule, or the presiding municipal judge.

141.3.3 The salary of the clerk of the Municipal Court shall be a fixed annual compensation payable upon a monthly basis as determined by the Town Board and as established by Resolution.

141.4. Bond

141.4.1 The Clerk of the Municipal Court shall be covered by a bond or insurance policy carried by the Town, such bond or policy to be approved by the Town Board and to be conditioned upon the faithful performance of the clerk's duties, and for the faithful accounting for, and payment of, all funds deposited with or received by the court.

141.4.2 Before entering upon the duties of his or her office, the municipal judge shall take and subscribe and file with the Clerk of the Town of Limon, an oath or

affirmation that he or she will support the Constitution of the United States and of the State of Colorado and the Charter and codes and Ordinances of the Town of Limon, and will faithfully perform the duties of the office.

141.5. Procedures and Powers of the Municipal Court.

The municipal judge shall have all judicial powers relating to the operation of his or her court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado supreme court. The municipal judge also has authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado Supreme Court.

141.6. COMMENCEMENT OF ACTIONS.

141.6.1 Any action or summons brought in the Municipal Court to recover any fine or enforce any penalty or forfeiture under any Town ordinance or the Town Code shall be filed in the corporate name of the Town of Limon by and on behalf of the people of the state of Colorado.

141.6.2 Any process issued from the Municipal Court runs in the corporate name of the Town of Limon by and on behalf of the people of the state of Colorado. Processes from the Municipal Court shall be executed by any authorized law enforcement officer from the Town.

141.6.3 Any authorized law enforcement officer may execute within his jurisdiction any summons, process, writ, or warrant issued by the Municipal Court. For the purposes of this section, traffic offenses shall not be considered criminal or quasi-criminal offenses.

141.6.4 The clerk of the Municipal Court shall issue a subpoena for the appearance of any witness in Municipal Court upon the request of either the Town or the defendant. The subpoena may be served upon any person within the jurisdiction of the court in the manner prescribed by the rules of procedure applicable to municipal courts. Any person subpoenaed to appear as a witness in Municipal Court shall be paid a witness fee in the amount of five dollars ($5.00).

141.6.5 Upon the request of the Municipal Court the Town or the defendant, the clerk of the Municipal Court shall issue a subpoena for the appearance, at any and all stages of the court's proceedings, of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense.

141.7. Fines, Penalties, Costs, and Rights of Defendants.

141.7.1 Any person convicted of violating a municipal codes and/or ordinance may be fined an amount not to exceed Three Hundred Dollars, ($300.00) per occurrence. In that the Town has decriminalized those traffic offenses as set forth in section **636.**, any person charged with violating the Code or any ordinance therein shall not be entitled to a trial by jury, but shall be entitled to the following rights: (1) to appear and defend in person and by counsel; (2) to demand the nature and cause of the accusation; (3) to meet the witnesses against him face to face; (4) to have process to compel the attendance of witnesses in his behalf; (5) a speedy public trial to the Municipal Judge; and (6) no person shall be compelled to testify against himself nor shall any person be twice put in jeopardy for the same offense.

141.7.2. Sentencing or Fines Under Model Traffic Code and/or Section 636.

In sentencing or fining a violator who has been convicted of committing a traffic offense as defined by the Model Traffic Code as adopted by the Town of Limon, or section **636**, the fine shall be the same as and shall not exceed such fine as imposed by the State of Colorado, effective October 1, 2008, for similar traffic offenses or infractions committed on a state highway or road. A Schedule of Fines shall be posted in the vicinity of where the violator is to pay his or her fine setting forth the maximum fine for each offense. This provision does not impede the Municipal Court Judge's discretion as to the suspension of fines for circumstances deemed relevant by the Judge. Further, any change or amendment of the State of Colorado fines for traffic offenses, as such schedule exists on October 1, 2008, shall not result in a similar change in the fines imposed by the Limon Municipal Court without a corresponding resolution, code or ordinance approved by the Board.

(Amended October 2, 2008 by Ordinance No. 525.)

141.7.2.1. Sentencing or Fines Under Other Code Violations. In sentencing or fining a violator who has been convicted of committing any offense not addressed in Section **141.7.2.**, the municipal judge shall not exceed the sentence or fine limitations established by code. The municipal judge may suspend the sentence or fine of any violator and place him or her on probation for a period not to exceed one year.

(Added October 2, 2008 by Ordinance No. 525.)

141.7.3 The municipal judge is empowered in his or her discretion to assess costs against any defendant who pleads guilty or nolo contendere or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation. The municipal judge shall, in all such cases, assess costs of no less than Twenty Five Dollars ($25.00).

(Amended October 2, 2008 by Ordinance No. 525.)

141.7.4 All fines and costs collected or received by the municipal court shall be reported and paid monthly, to the treasurer of the Town and deposited in the general fund of the Town.

141.8. Appeals.

141.8.1 Appeals taken from judgments of the Municipal Court shall be made to the District Court of Lincoln County. The practice and procedure in such case shall be the same as provided by section 13-6-310 of the Colorado Revised Statutes and applicable rules of procedure for the appeal of misdemeanor convictions from the county court to the district court.

141.8.2 All appeal costs, procedures, and bond requirements shall be the same as set forth in Colorado Revised Statutes 13-10-117, 13-10-118, 13-10-119, 13-10-120, 13-10-121, 13-10-122, 13-10-123, and 13-10-124 as such statutes apply to municipal courts of record.

142 - Compensation for Police Magistrates, Fees, Other Charges

HISTORY: Ordinance No. 187 dated May 6, 1985; Repealed in its entirety on March 3, 1994 by Ordinance No. 375.

150 - Administrative Matters

151 - Legal Holidays

151.1. Legal Holiday – Town Hall to Observe.

The following days, viz: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day are hereby declared to be legal holidays. If a legal holiday shall fall on a Saturday, it shall be observed on the preceding Friday. If a legal holiday falls on a Sunday, it shall be observed on the following Monday.

(Amended by Ordinance No. 380 on October 6, 1994)

151.2. Saturday Half – Day.

(Deleted by Ordinance No. 380 on October 6, 1994)

151.3. Emergency.

The mayor is hereby empowered to declare an emergency in which event any of the holidays enumerated above may be discontinued for the duration of the emergency.

152 - Official Map

153 - Fiscal Year

155 – Non-Domestic Pretreatment

155.1. General Provisions.

155.1.1. Purpose and Policy.

This code sets forth uniform requirements for users of the Publicly Owned Treatment Works for the Town of Limon and enables the Town of Limon to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403).

155.1.1.1. The objectives of this code are:

155.1.1.1.1. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

155.1.1.1.2. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

155.1.1.1.3. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

155.1.1.1.4. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;

155.1.1.1.5. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

155.1.1.1.6. To enable the Town of Limon to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

155.1.1.2. This code shall apply to all users of the Publicly Owned Treatment Works. The code authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

155.1.2. Administration.

Except as otherwise provided herein, Town Manager shall administer, implement, and enforce the provisions of this code. Any powers granted to or duties imposed upon the Town Manager may be delegated by the Town Manager to other Town of Limon personnel, as appropriate.

155.1.3. Abbreviations.

The following abbreviations, when used in this code, shall have the designated meanings:

155.1.3.1.1. BOD - Biochemical Oxygen Demand

155.1.3.1.2. CFR - Code of Federal Regulations

155.1.3.1.3. COD - Chemical Oxygen Demand

155.1.3.1.4. EPA - U.S. Environmental Protection Agency

155.1.3.1.5. gpd - gallons per day

155.1.3.1.6. mg/l - milligrams per liter

155.1.3.1.7. NAICS – North American Industry Classification System

155.1.3.1.8. NPDES -National Pollutant Discharge Elimination System

155.1.3.1.9. POTW - Publicly Owned Treatment Works

155.1.3.1.10. RCRA -Resource Conservation and Recovery Act

155.1.3.1.11. TSS - Total Suspended Solids

155.1.3.1.12. U.S.C. - United States Code

155.1.3.2. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

155.1.3.2.1. Act or "the Act": The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 6 1251 et seq.

155.1.3.2.2. Authorized Representative of the User:

155.1.3.2.3. If the user is a corporation:

155.1.3.2.3.1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

155.1.3.2.3.2. The manager of one or more manufacturing, production, or operation facilities, covered by this code, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures and the written authorization is submitted to the Town of Limon.

155.1.3.2.4. If the user is a partnership or sole proprietorship: a general partner or Proprietor, respectively.

155.1.3.2.5. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

155.1.3.2.6. The individuals described in sections **137.1.3.2.1.** through **137.1.3.2.3.**, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town of Limon.

155.1.3.3. Biochemical Oxygen Demand or BOD: The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

155.1.3.4. Categorical Pretreatment Standard or Categorical Standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 6 1317), as amended.

155.1.3.5. Environmental Protection Agency or EPA: The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

155.1.3.6. Existing Source: Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

155.1.3.7. Grab Sample: A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

155.1.3.8. Indirect Discharge or Discharge: The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

155.1.3.9. Instantaneous Maximum Allowable Discharge Limit: The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

155.1.3.10. Interference: A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and may, as a result thereof, result in or contribute as a cause of a violation of Town of Limon's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

155.1.3.11. Medical Waste: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes. and dialysis waste

155.1.3.12. New Source:

155.1.3.12.1. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

155.1.3.12.1.1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

155.1.3.12.1.2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

155.1.3.12.1.3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

155.1.3.12.2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Sections **137.1.3.12.1.2. or 137.1.3.12.1.3.**, but otherwise alters, replaces, or adds to existing process or production equipment.

155.1.3.12.3. Construction of a new source as defined under this section has commenced if the owner or operator has:

155.1.3.12.3.1. Begun, or caused to begin, as part of a continuous onsite construction

155.1.3.12.3.1.1. any placement, assembly, or installation of facilities or equipment; or

155.1.3.12.3.1.2. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

155.1.3.12.3.2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

155.1.3.13. Non-contact Cooling Water: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

155.1.3.14. North American Industry Classification System: A system developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about business activity across North America which replaced Standard Industry Codes (SIC).

155.1.3.15. Pass Through: A discharge, which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, and may as a result thereof result in or contribute as a cause of a violation of any requirement of the Town of Limon's NPDES permit, including an increase in the magnitude or duration of a violation.

155.1.3.16. Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

155.1.3.17. pH: A measure of the acidity or alkalinity of a solution, expressed in standard units.

155.1.3.18. Pollutant: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive material, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

155.1.3.19. Pretreatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

155.1.3.20. Pretreatment Requirements: Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

155.1.3.21. Pretreatment Standards or Standards: Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

155.1.3.22. Prohibited Discharge Standards or Prohibited Discharges: Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section **155.2.1.**

155.1.3.23. Publicly Owned Treatment Works or POTW: A "treatment works," as defined by Section 212 of the Act (33 U.S.C. 91292) which is owned by the Town of Limon. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

155.1.3.24. Town Manager: The person designated by the Town of Limon to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this code, or a duly authorized representative.

155.1.3.25. Septic Tank Waste: Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

155.1.3.26. Sewage: Human excrement and gray water (household showers, dishwashing operations, etc.).

155.1.3.27. Significant Industrial User:

155.1.3.27.1. A user subject to categorical pretreatment standards; or

155.1.3.27.2. A user that:

155.1.3.27.2.1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);

155.1.3.27.2.2. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

155.1.3.27.2.3. Is designated as such by the Town of Limon on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

155.1.3.27.3. Upon a finding that a user meeting the criteria in section **155.1.3.27.2.** has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town of Limon may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

155.1.3.28. Slug Load or Slug: Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section **155.2.1.**

155.1.3.29. Storm Water: Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

155.1.3.30. Suspended Solids: The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

155.1.3.31. Town: The Town of Limon or the Board of Trustees of the Town of Limon

155.1.3.32. Town Code: The Municipal Code of the Town of Limon.

155.1.3.33. User or Industrial User: A source of indirect discharge.

155.1.3.34. Wastewater: Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

155.1.3.35. Wastewater Treatment Plant or Treatment Plant: That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

155.2. General Sewer Use Requirements.

155.2.1. Prohibited Discharge Standards.

155.2.1.1. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

155.2.1.2. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

155.2.1.2.1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

155.2.1.2.2. Wastewater having a pH less than 6.5, nor greater than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;

155.2.1.2.3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2") in any dimension;

155.2.1.2.4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

155.2.1.2.5. Wastewater having a temperature greater than 150° F (65.56° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

155.2.1.2.6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

155.2.1.2.7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

155.2.1.2.8. Trucked or hauled pollutants, except at discharge points designated by the Town Manager in accordance with Section **155.3.4.**;

155.2.1.2.9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

155.2.1.2.10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Town of Limon's NPDES permit;

155.2.1.2.11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

155.2.1.2.12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Town Manager;

155.2.1.2.13. Sludges, screenings, or other residues from the pretreatment of industrial wastes;

155.2.1.2.14. Medical wastes, except as specifically authorized by the Town Manager in a wastewater discharge permit;

155.2.1.2.15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

155.2.1.2.16. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

155.2.1.2.17. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.

155.2.1.3. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

155.2.2. National Categorical Pretreatment Standards.

155.2.2.1. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated

155.2.2.1.1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Town Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

155.2.2.1.2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Town Manager shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

155.2.2.1.3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

155.2.2.1.4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

155.2.3. State Pretreatment Standards.

[RESERVED]

155.2.4. Local Limits.

(Amended October 9, 2003 by Ordinance No. 489)

155.2.4.1. The following pollutant limits are established to protect against pass through and interference. No user shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

155.2.4.1.1. May – November
.00344 mg/l arsenic
December – April
.00344 mg/l arsenic

155.2.4.1.2. May – December
.003068 mg/l cadmium
December – April
.003067 mg/l cadmium

155.2.4.1.3. May – November
2.714 mg/l chromium (6, Hexavalent Chromium)
November – April
2.684 mg/l chromium (6, Hexavalent Chromium)

155.2.4.1.4. May – November
2.646 mg/l chromate, total
November – April
2.616 mg/l chromate, total

155.2.4.1.5. May – November
.1934 mg/l copper
December – April
.1919 mg/l copper

155.2.4.1.6. May – November
.03480 mg/l lead
December – April
.03458 mg/l lead

155.2.4.1.7. May – November
.002733 mg/l mercury
December – April
.002706 mg/l mercury

155.2.4.1.8. May – November
.04873 mg/l nickel
December – April
.04842 mg/l nickel

155.2.4.1.9. May – November
1,247.67 mg/l nitrogen, total kjeldahl
December – April
1,234.13 mg/l nitrogen, total kjeldahl

155.2.4.1.10. 102.88 mg/l oil and grease

155.2.4.1.11. May – November
.00883 mg/l selenium
December – April
.00881 mg/l selenium

155.2.4.1.12. 10 mg/l Settable Solids

155.2.4.1.13. 37 ml/l Settable Solids

(Amended March 6, 2006 by Ordinance No. 514.)

155.2.4.1.14. May – November
.2764 mg/l zinc
December – April
.2753 mg/l zinc

155.2.4.1.15. Not less than 6.5 nor greater than 9.0 pH

155.2.4.2. The following pollutant limits are established to protect against pass through and interference. No user shall discharge wastewater containing in excess of the following allowable discharge limits:

155.2.4.2.1. BOD_5 shall not exceed an instantaneous maximum allowable discharge limit of 712 mg/l nor exceed a thirty (30) day average of 475 mg/l.

155.2.4.2.2. Total Dissolved Solids (TDS) shall not exceed an instantaneous maximum allowable discharge limit of 3,750 mg/l nor exceed a thirty (30) day average of 2,500 mg/l.

155.2.4.2.3. Total Suspended Solids (TSS)

155.2.4.2.3.1. May – November shall not exceed an instantaneous maximum allowable discharge limit of 790 mg/l nor exceed a thirty (30) day average of 527 mg/l.

155.2.4.2.3.2. December – April shall not exceed an instantaneous maximum allowable discharge limit of 870 mg/l nor exceed a thirty (30) day average of 580 mg/l.

155.2.4.2.4. Cyanide, amendable to chlorination

155.2.4.2.4.1. May – November shall not exceed an instantaneous maximum allowable discharge limit of 0.354 mg/l nor exceed a thirty (30) day average of 0.236 mg/l.

155.2.4.2.4.2. December – April shall not exceed an instantaneous maximum allowable discharge limit of 0.350 mg/l nor exceed a thirty (30) day average of 0.233 mg/l.

155.2.4.2.5. Sulfate/Sulfide shall not exceed an instantaneous maximum allowable discharge limit of 1,778 mg/l nor exceed a thirty (30) day average of 1,185 mg/l.

155.2.4.3. The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. the Town Manager may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

155.2.4. Town of Limon's Right of Revision.

The right to establish, by code, ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

155.2.5. Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. the Town Manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

155.3. Pretreatment Of Wastewater.

155.3.1. Pretreatment Facilities.

155.3.1.1. Users shall provide wastewater treatment as necessary to comply with this code and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section **155.2.1.** within the time limitations specified by EPA, the State, or the Town Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Town Manager for review, and shall be acceptable to the Town Manager before such facilities are constructed. The Town Manager may request such additional information as is necessary for a full review of the plans.

155.3.1.1.1. Within ten (10) days of receiving all information requested by the Town Manager, the Town Manager shall schedule a consultation meeting with the user or the user's representative at which time the Town Manager may request the user to prepare a mitigation plan that modifies the facility operation or design to ensure compliance with the Town Code and pretreatment standards.

155.3.1.1.2. Within twenty (20) days of the consultation meeting, the Town Manager may, by written memorandum, approve the facility plan incorporating any alterations, modifications, or conditions deemed necessary to ensure that the facility will comply with Town Code and pretreatment standards, or may deny the facility plan if the constructed facility will not meet Town Code or pretreatment standards.

155.3.1.1.3. In the event that the Town Manager determines that plans submitted by the user require further technical expertise may authorize the use of appropriate technical assistance in evaluating and/or modifying the plan and shall further establish at that time a time table for the completion of the study and construction or installation of the proposed facility.

155.3.1.1.4. As to Significant Industrial Users, the timetable for the construction of pretreatment facilities may, at the discretion of the Town Manager, be coordinated with the issuance of a wastewater discharge permit as set forth in Section **155.4.**

155.3.2. Additional Pretreatment Measures:

155.3.2.1. Whenever deemed necessary, the Town Manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this code.

155.3.2.2. The Town Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow- control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

155.3.2.3. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Town Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Town Manager and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

155.3.2.4. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

155.3.3. Accidental Discharge/Slug Control Plans

155.3.3.1. At least once every two (2) years, the Town Manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. the Town Manager may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Town Manager may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

155.3.3.1.1. Description of discharge practices, including non-routine batch discharges;

155.3.3.1.2. Description of stored chemicals;

155.3.3.1.3. Procedures for immediately notifying the Town Manager of any accidental or slug discharge, as required by Section **155.6.6.** ; and

155.3.3.1.4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

155.3.4. Hauled Wastewater.

[RESERVED]

155.4. Wastewater Discharge Permit Application.

155.4.1. When requested by the Town Manager, a user must submit information on the nature and characteristics of its wastewater within twenty-one (21) days of the request. the Town Manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

155.4.2. Wastewater Discharge Permit Requirement.

155.4.2.1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Town Manager except that a significant industrial user that has filed a timely application pursuant to Section **155.4.3.** may continue to discharge for the time period specified therein.

155.4.2.2. The Town Manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this code.

155.4.2.3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this code and subjects the wastewater discharge permitee to the sanctions set out in Sections **155.10.** through **155.12.** Obtaining a wastewater discharge permit does not relieve a permitee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

155.4.3. Wastewater Discharge Permitting: Existing Connections

155.4.3.1. Any user, other than a Significant Industrial User, required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this code and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Town Manager for a wastewater discharge permit in accordance with Section **155.4.5.**, and shall not cause or allow discharges to the POTW to continue after one hundred twenty (120) days of the effective date of this code except in accordance with a wastewater discharge permit issued by the Town Manager.

155.4.3.2. Any Significant Industrial User required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this code and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Town Manager for a wastewater discharge permit in accordance with Section **155.4.5.**

155.4.3.2.1. In support of the application, the Significant Industrial User shall submit any and all information requested by the Town Manager as set forth on a form provided by the Town.

155.4.3.2.2. If additional pretreatment facilities or requirements are necessary to meet the pretreatment standards, the Town Manager with assistance from available technical assistance that the Town Manager may seek, may establish a schedule and timetable for meeting pretreatment standards.

155.4.3.2.3. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Significant Industrial User to meet the applicable pretreatment standards.

155.4.3.2.4. In no event shall the schedule exceed nine (9) months or the Significant Industrial User be permitted to discharge into the POTW after the schedule deadline without the written consent of the Town Manager.

155.4.4. Wastewater Discharge Permitting: New Connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section **155.4.5.**, must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

155.4.5. Wastewater Discharge Permit Application Contents

155.4.5.1. All users required to obtain a wastewater discharge permit must submit a permit application. The Town Manager may require all users to submit as part of an application the following information:

155.4.5.1.1. All information required by Section **155.6.1.2.;**

155.4.5.1.2. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

155.4.5.1.3. Number and type of employees, hours of operation, and proposed or actual hours of operation;

155.4.5.1.4. Each product produced by type, amount, process or processes, and rate of production;

155.4.5.1.5. Type and amount of raw materials processed (average and maximum per day);

155.4.5.1.6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by site, location, and elevation, and all points of discharge;

155.4.5.1.7. Time and duration of discharges; and

155.4.5.1.8. Any other information as may be deemed necessary by the Town Manager to evaluate the wastewater discharge permit application.

155.4.5.2. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

155.4.6. Application Signatories and Certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the System, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*"

155.4.7. Wastewater Discharge Permit Decisions.

155.4.7.1. The Town Manager will evaluate the data furnished by the user, except for Significant Industrial Users, and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application for users other than Significant Industrial Users, the Town Manager will determine whether or not to issue a wastewater discharge permit. The Town Manager may deny any application for a wastewater discharge permit.

155.4.7.2. The Town Manager will evaluate data provided by Significant Industrial Users pursuant to the Section **155.4.3.2.**

155.5. Wastewater Discharge Permit Issuance Process.

155.5.1. Wastewater Discharge Permit Duration.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Town Manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

155.5.2. Wastewater Discharge Permit Contents.

155.5.2.1. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Town Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

155.5.2.2. Wastewater discharge permits must contain:

155.5.2.2.1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

155.5.2.2.2. A statement that the wastewater discharge permit is nontransferable except in accordance with Section **155.5.5.**, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

155.5.2.2.3. Effluent limits based on applicable pretreatment standards;

155.5.2.2.4. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and

155.5.2.2.5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

155.5.2.2.6. A statement requiring that within ninety (90) days of the effective date of the permit, a Best Management Practices Plan for control of solvents and for the control of accidental spills shall be submitted.

155.5.2.2.7. Industrial Pretreatment Enforcement Response Guide

155.5.3. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

155.5.3.1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

155.5.3.2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

155.5.3.3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

155.5.3.4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

155.5.3.5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

155.5.3.6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

155.5.3.7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

155.5.3.8. Other conditions as deemed appropriate by the Town Manager to ensure compliance with this code, and State and Federal laws, rules, and regulations.

155.5.4. Wastewater Discharge Permit Appeals.

155.5.4.1. The Town Manager shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Town Manager to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

155.5.4.1.1. Failure to submit a timely petition for review shall be deemed to be a waiver of the user's right to an administrative appeal.

155.5.4.1.2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

155.5.4.1.3. The effectiveness of the wastewater discharge permit shall not be stayed pending the administrative review and/or appeal.

155.5.4.1.4. Upon receipt of the petition, the Town Manager shall respond, in writing, to the petition either admitting or denying any request set forth in the petition.

155.5.4.1.5. The Town Manager shall have the discretion to request a meeting with the petitioner for the purpose of receiving clarification or further information concerning any matter contained in the petition.

155.5.4.1.6. If the Town Manager has not responded to the petition within fourteen (14) days of receiving the petition, a request for reconsideration shall be deemed to be denied by the Town Manager.

155.5.4.1.7. In the event the Town Manager denies the request set forth in the petition for reconsideration, the petitioner shall be entitled to have the decision of the Town Manager reviewed by the Municipal Court Judge of the Limon Municipal Court.

155.5.4.1.7.1. The request for review must be made by the petitioner by the filing of the petition for review with the Limon Municipal Court Clerk within fifteen (15) days of the denying of the petition by the Town Manager.

155.5.4.1.7.2. In this review, the Municipal Court Judge will be hearing the petition in a final administrative review capacity and not in a judicial appeal capacity.

155.5.4.1.7.3. The usual judicial rules of evidence shall not apply though the Municipal Judge may establish rules deemed to be appropriate for the efficient and thorough review of the matter.

155.5.4.1.8. The final administrative review hearing before the Limon Municipal Court Judge shall be held within thirty (30) days of the filing of the petition for review unless both parties agree to a longer period.

155.5.4.1.9. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Lincoln County District Court within the time allowed by law..

155.5.5. Wastewater Discharge Permit Modification.

155.5.5.1. The Town Manager may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

155.5.5.1.1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

155.5.5.1.2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

155.5.5.1.3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

155.5.5.1.4. Information indicating that the permitted discharge poses a threat to the Town of Limon's POTW, Town of Limon personnel, or the receiving waters;

155.5.5.1.5. Violation of any terms or conditions of the wastewater discharge permit;

155.5.5.1.6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

155.5.5.1.7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

155.5.5.1.8. To correct typographical or other errors in the wastewater discharge permit; or

155.5.6. Wastewater Discharge Permit Transfer.

155.5.6.1. Wastewater discharge permits shall be issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned or transferred or sold to a new owner, new user, or applied to different permits or to a new or changed operation without the approval of the Town Manager. Any succeeding owner or user shall also comply with the terms of the existing permit until a final decision is made by the Town Manager.

155.5.6.2. Notice of an assignment, transfer, sale, application to other permits or changed operation shall be submitted to the Town Manager for consideration within five (5) days of closing of the transaction.

155.5.6.2.1. Failure of the user and the proposed transferee to provide such notice may, in the discretion of the Town Manager, result denial of approval of the transfer.

155.5.6.2.2. The user shall, in event of any agreement for the sale of the user's business operation fully inform the proposed new owner or new user of the terms and conditions of the existing permit.

155.5.6.2.3. No liability shall attach to the Town or the Town Manager in the event that the Town Manager, or other of the Town Officers or employees, are contacted by the proposed new owner or new user with questions concerning the permit or Town requirements.

155.5.6.2.4. In such event, the Town Manager, or other Town Officers or employees, shall to the best of their ability, keep such communications confidential.

155.5.6.3. The notice to the Town Manager must include a written certification by the new owner or operator which:

155.5.6.3.1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

155.5.6.3.2. Identifies the specific date on which the transfer occurred; and

155.5.6.3.3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

155.5.6.4. Failure to provide notice of a transfer in accordance with Section **155.5.6.2.** shall render the permit transfer ineffective, and the transferring permit holder shall remain responsible for permit compliance until the proposed transfer is approved by the Town Manager.

155.5.7. Wastewater Discharge Permit Revocation.

155.5.7.1. The Town Manager may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

155.5.7.1.1. Failure to notify the Town Manager of significant changes to the wastewater prior to the changed discharge;

155.5.7.1.2. Failure to provide prior notification to the Town Manager of changed conditions pursuant to Section **155.6.5.**;

155.5.7.1.3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

155.5.7.1.4. Falsifying self-monitoring reports;

155.5.7.1.5. Tampering with monitoring equipment;

155.5.7.1.6. Refusing to allow the Town Manager timely access to the facility premises and records;

155.5.7.1.7. Failure to meet effluent limitations;

155.5.7.1.8. Failure to pay fines;

155.5.7.1.9. Failure to pay sewer charges;

155.5.7.1.10. Failure to meet compliance schedules;

155.5.7.1.11. Failure to complete a wastewater survey or the wastewater discharge permit application;

155.5.7.1.12. Failure to provide notice of the transfer of business ownership of a permitted facility as required in Section **155.5.6.2.**; or

155.5.7.1.13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this code.

155.5.7.2. Wastewater discharge permits shall be voidable upon permanent cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

155.5.8. Wastewater Discharge Permit Re-issuance.

155.5.8.1. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with Section **155.4.5.**, a minimum of sixty (60) days prior to the expiration of the user's existing wastewater discharge permit.

155.5.8.2. Provided that a user submits a timely application for wastewater discharge permit reissuance as provided in the preceding paragraph, that user's existing wastewater discharge permit will continue to remain in effect and operate under its stated terms, until the new permit is either issued or denied. It shall not be a violation of this code for a user to continue discharging in compliance with an expired permit pending approval of a properly applied for new wastewater discharge permit.

155.5.9. Regulation of Waste Received from Other Jurisdictions. [RESERVED]

155.6. Reporting Requirements.

155.6.1. Baseline Monitoring Reports.

155.6.1.1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 4036(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Town Manager a report which contains the information listed in section **155.6.1.2.** At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to Town Manager a report which contains the information listed in section **155.6.2.** A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

155.6.1.2. Users described above shall submit the information set forth below.

155.6.1.2.1. Identifying Information. The name and address of the facility, including the name of the operator and owner.

155.6.1.2.2. Environmental Permits. A list of any environmental control permits held by or for the facility.

155.6.1.2.3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

155.6.1.2.4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

155.6.1.2.5. Measurement of Pollutants.

155.6.1.2.5.1. The categorical pretreatment standards shall be applicable to each regulated process.

155.6.1.2.5.2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Town Manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section **155.6.10.**

155.6.1.2.5.3. Sampling must be performed in accordance with procedures set out in Section **155.6.11.**

155.6.1.2.6. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

155.6.1.2.7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section **155.6.2.**.

155.6.1.2.8. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section **155.4.6.**

155.6.2. Compliance Schedule Progress Reports.

155.6.2.1. The following conditions shall apply to the compliance schedule required by Section **155.6.1.2.7.**:

155.6.2.1.1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

155.6.2.1.2. No increment referred to above shall exceed nine (9) months;

155.6.2.1.3. The user shall submit a progress report to the Town Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

155.6.2.1.4. In no event shall more than nine (9) months elapse between such progress reports to the Town Manager.

155.6.3. Reports on Compliance with Categorical Pretreatment Standard Deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Town Manager a report containing the information described in Sections **155.6.1.2.4.** through **155.1.2.6.**. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section **155.4.6.**

155.6.4. Periodic Compliance Reports.

155.6.4.1. All significant industrial users shall, at a frequency determined by the Town Manager, but in no case less than indicated in the chart below:

SELF-MONITORING FREQUENCY

GALLONS PER DAY	FREQUENCY
1 – 10,000	Once per month
10,000 – 50,000	Twice per month
50,000 – 100,000	Once per week
100,000 – 250,000	Twice per week
Over 250,000	Three times per week

155.6.4.2. Industrial users shall submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section **155.4.6.**

155.6.4.3. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

155.6.4.4. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Town Manager, using the procedures prescribed in Section **155.6.11.**, the results of this monitoring shall be included in the report.

155.6.5. Reports of Changed Conditions.

Each user must notify the Town Manager of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

155.6.5.1. The Town Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a discharge permit application under Section **155.4.5.**

155.6.5.2. The Town Manager may issue a wastewater discharge permit under Section **155.4.7.** or modify an existing wastewater discharge permit under Section **155.5.4.** in response to changed conditions or anticipated changed conditions.

155.6.5.3. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

155.6.6. Reports of Potential Problems.

155.6.6.1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Town Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. Within five (5) days following such discharge, the user shall, unless waived by the Town Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

155.6.6.2. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in section **155.6.6.1.** Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

155.6.7. Reports from Un-permitted Users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Town Manager as the Town Manager may require.

155.6.8. Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by a user indicates a violation, the user must notify the Town Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Town Manager within fifteen (15) days after becoming aware of the violation.

155.6.9. Notification of the Discharge of Hazardous Waste.

155.6.9.1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and Colorado Department of Public Health and Environment, Hazardous Materials and Waste Division Director, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of

constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section **155.6.5.** The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections **155.6.1.**, **155.6.3.**, and **155.6.4.**

155.6.9.2. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Town Manager, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

155.6.9.3. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

155.6.9.4. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this code, a permit issued thereunder, or any applicable Federal or State law.

155.6.10. Analytical Requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standards. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

155.6.11. Sample Collection.

155.6.11.1. Except as indicated in Section **155.6.11.2.**, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Town Manager may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

155.6.11.2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

155.6.12. Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

155.6.13. Record Keeping.

Users subject to the reporting requirements of this code shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this code and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation between the user and the Town of Limon, or where the user has been specifically notified of a longer retention period by the Town Manager.

155.7. Compliance Monitoring.

155.7.1. Right of Entry: Inspection and Sampling.

155.7.1.1. The Town Manager or designee shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this code and any wastewater discharge permit or order issued hereunder. Users shall allow the Town Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties; or as described in CRS.

155.7.1.1.1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Town Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

155.7.1.1.2. The Town Manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

155.7.1.1.3. The Town Manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy or documentation provided that demonstrates calibration accuracy.

155.7.1.1.4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Town Manager and shall not be replaced. The costs of clearing such access shall be born by the user.

155.7.1.1.5. Unreasonable delays in allowing the Town Manager access to the user's premises shall be a violation of this code.

155.7.1.2. The Town Manager shall perform sampling on each significant industrial user facility no less frequently than indicated on the following chart:

MONITORING FREQUENCY

GALLONS PER DAY	FREQUENCY
1 – 10,000	Once every three months
10,000 – 50,000	Twice every three months
50,000 – 100,000	Once per month
100,000 – 250,000	Twice per month
Over 250,000	Three times per month

155.7.1.3. Annual Evaluation. The Town Manager shall, on an annual basis, complete a full evaluation of each facility of any significant industrial user.

155.7.2. Search Warrants.

If the Town Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town of Limon designed to verify compliance with this cpde or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town Manager may seek issuance of a search warrant from the Municipal Court of the Town of Limon or other court of competent jurisdiction.

155.8. Confidential Information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Town Manager's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Town Manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

155.9. Publication of Users in Significant Noncompliance.

155.9.1. The Town Manager shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

155.9.1.1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

155.9.1.2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

155.9.1.3. Any other discharge violation that the Town Manager believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

155.9.1.4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Town Manager's exercise of its emergency authority to halt or prevent such a discharge;

155.9.1.5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

155.9.1.6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

155.9.1.7. Failure to accurately report noncompliance for which a Notice of Violation has been issued; or

155.9.1.8. Any other violation(s) for which a Notice of Violation has been issued which the Town Manager determines will adversely affect the operation or implementation of the local pretreatment program.

155.10. Administrative Enforcement Remedies.

155.10.1. Notification of Violation.

155.10.1.1. When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Town Manager may serve upon that user a written Notice of Violation. Within twenty (20) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Town Manager.

155.10.1.2. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Town Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

155.10.2. Consent Orders.

The Town Manager may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections **155.10.4.** and **155.10.5.** and shall be judicially enforceable.

155.10.3. Show Cause Hearing.

The Town Manager may order a user which has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Town Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

155.10.4. Compliance Orders.

When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Town Manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

155.10.5. Cease and Desist Orders.

155.10.5.1. When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Town Manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

155.10.5.1.1. Immediately comply with all requirements; and

155.10.5.1.2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

155.10.5.2. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

155.10.6. Administrative Penalties.

155.106.1. When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Town Manager may fine such user in an amount not to exceed $25,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

155.10.6.2. Unpaid charges, fines, and penalties shall be collected as provided for in the Municipal Code of the Town of Limon, Section **134**.

155.10.6.3. Users desiring to dispute such administrative penalties and costs may request a review through the petition process described in Section **155.5.4.** The Town Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, as well as the cost of the administrative review, if the user is unsuccessful, to the penalty.

155.10.6.4. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

155.10.7. Emergency Suspension.

155.10.7.1. The Town Manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Town Manager may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

155.10.7.1.1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Town Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Town Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Town Manager that the period of endangerment has passed, unless the termination proceedings in Section **155.10.8.** are initiated against the user.

155.10.7.1.2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement,

describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Town Manager prior to the date of any show cause or termination hearing under Sections **155.10.3.** or **155.10.8.**

155.10.7.2. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

155.10.8. Termination of Discharge.

155.10.8.1. In addition to the provisions in Section **155.5.6.**, any user who violates the following conditions is subject to discharge termination:

155.10.8.1.1. Violation of wastewater discharge permit conditions;

155.10.8.1.2. Failure to accurately report the wastewater constituents and characteristics of its discharge;

155.10.8.1.3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

155.10.8.1.4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

155.10.8.1.5. Violation of the pretreatment standards in Section **155.2.**

155.10.8.2. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section **155.10.3.** why the proposed action should not be taken. Exercise of this option by the Town Manager shall not be a bar to, or a prerequisite for, taking any other action against the user.

155.11. Judicial Enforcement Remedies.

155.11.1. Injunctive Relief.

When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Town Manager may petition the Municipal Court of the Town of Limon or any court of competent jurisdiction through the Town of Limon's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The Town Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

155.11.2. Civil Penalties.

155.11.2.1. A user who has violated, or continues to violate, any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Town of Limon for a maximum civil penalty of $25,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

155.11.2.2. The Town Manager may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town of Limon.

155.11.2.3. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

155.11.2.4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

155.11.3. Criminal Prosecution.

155.11.3.1. A user who willfully or negligently violates any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $25,000 per violation, per day.

155.11.3.2. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least $25,000. This penalty shall be in

addition to any other cause of action for personal injury or property damage available under State law.

155.11.3.3. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this code, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than $25,000 per violation, per day.

155.11.3.4. In the event of a second conviction, a user shall be punished by a fine of not more than $25,000 per violation, per day.

155.11.4. Remedies Nonexclusive.

The remedies provided for in this code are not exclusive. The Town Manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town of Limon's enforcement response plan. However, the Town Manager may take other action against any user when the circumstances warrant. Further, the Town Manager is empowered to take more than one enforcement action against any noncompliant user.

155.12. Supplement Enforcement Action.

155.12.1. Performance Bonds.

The Town Manager may decline to issue or reissue a wastewater discharge permit to any user who the Town Manager determines may result in required long term cleanup efforts beyond the term of the discharge unless such user first files a satisfactory bond, payable to the Town of Limon, in a sum not to exceed a value determined by the Town Manager to be necessary to achieve consistent compliance.

155.12.2. Water Supply Severance.

Whenever a user has violated or continues to violate any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed upon a determination by the Town Manager that the user is unable or unwilling to comply with this code. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability and willingness to comply.

155.12.3. Informant Rewards.

The Town Manager may pay up to fifty dollars ($50) for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty or an administrative penalty levied against the user, the Town Manager may disburse up to five percent (5%) of the collected line or penalty to the informant. However, a single reward payment may not exceed one thousand dollars ($1,000).

155.13. Affirmative Defenses to Discharge Violations.

155.13.1. Upset.

155.13.1.1. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

155.13.1.2. An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the requirements of section **155.13.1.3.**, are met.

155.13.1.3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

155.13.1.3.1. An upset occurred and the user can identify the cause(s) of the upset;

155.13.1.3.2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

155.13.1.3.3. The user has submitted the following information to the Town Manager within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:

155.13.1.3.3.1. A description of the indirect discharge and cause of noncompliance;

155.13.1.3.3.2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

155.13.1.3.3.3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

155.13.1.3.4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

155.13.1.3.5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with pretreatment standards.

155.13.1.3.6. Users shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

155.13.2. Prohibited Discharge Standards.

155.13.2.1. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section **155.2.1.1.** or the specific prohibitions in Sections **155.2.1.2.3.** through **155.2.1.2.17.** if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

155.13.2.1.1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

155.13.2.1.2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town of Limon was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

155.13.3. Bypass.

155.13.3.1. For the purposes of section **155.13.3.:**

155.13.3.1.1. "Bypass": the intentional diversion of waste streams from any portion of a user's treatment facility.

155.13.3.1.2. "Severe property damage": substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

155.13.3.1.3. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation.

155.13.3.1.3.1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Town Manager, at least ten (10) days before the date of the bypass, if possible.

155.13.3.1.3.1.1. A user shall submit oral notice to the Town Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Town Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

155.13.3.1.3.2. Bypass is prohibited, and the Town Manager may take an enforcement action against a user for a bypass, unless

155.13.3.1.3.2.1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

155.13.3.1.3.2.2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment

downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

155.13.3.1.3.2.3. The user submitted notices as required under section **155.13.3.1.3.1.1.**,

155.13.3.1.4. The Town Manager may approve anticipated bypass, after considering its adverse effects, if the Town Manager determines that it will meet the three conditions listed in section **155.13.3.1.3.2.**

155.14. Annual Discharge Permit Fees.

155.14.1. Industrial dischargers subject to categorical effluent standards discharging to publicly owned treatment works with pretreatment programs (not including categorical industries subject to zero discharge standards) shall annually pay the following amounts:

155.14.1.1. Subcategory 1: Less than 10,000 gallons per day: $ 600

155.14.1.2. Subcategory 2: 10,000 to 50,000 gallons per day: $ 900

155.14.1.3. Subcategory 3: Greater than 50,000 gallons per day: $ 1,200

155.14.2. All other significant industrial dischargers discharging to publicly owned treatment works with pretreatment programs (including categorical industries subject to zero discharge standards) shall annually pay the following amounts:

155.14.2.1. Subcategory 1: Less than 10,000 gallons per day: $ 150

155.14.2.2. Subcategory 2: 10,000 to 50,000 gallons per day: $ 300

155.14.2.3. Subcategory 3: Greater than 50,000 gallons per day: $ 400

155.14.3. All significant industrial users shall be billed for the cost of each monitoring sample completed by the Town of Limon as required by Section **155.7.1.2.**

155.15. Miscellaneous Provisions.

155.15.1. Pretreatment Charges and Fees

155.15.1.1 The Town of Limon may adopt reasonable fees for reimbursement of costs of setting up and operating Town of Limon's Pretreatment Program which may include:

155.15.1.1.1. Fees for wastewater discharge permit applications including the cost of processing such applications;

155.15.1.1.2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

155.15.1.1.3. Fees for reviewing and responding to accidental discharge procedures and construction;

155.15.1.1.4. Fees for filing appeals; and

155.15.1.1.4.1. Other fees as the Town of Limon may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this code and are separate from all other fees, fines, and penalties chargeable by the Town of Limon.

160 - Finance

161 - Municipal Contracts, Purchases, Conveyances

(Amended March 3, 2005 by Ordinance No. 500.)

161.1. CONTRACTORS' BONDS.

Any person or persons, company or companies, firm or firms, corporation or corporations entering into a contract with the Town of Limon for the construction of any public building or the prosecution or completion of any public work, or for repairs upon any public building or public work, shall be required before commencing work, to execute, in addition to all bonds that may now or hereafter be required of them, a penal bond, with good and sufficient surety or sureties, to be approved by the

Board of Trustees of the Town of Limon, conditioned that such contractor or contractors shall promptly make payments of all amounts lawfully due to all persons supplying or furnishing him or them, or his or their contractor or subcontractors with labor or materials, used or performed in the prosecution of the work provided for in such contract, and will indemnify the Town of Limon to the extent of any and all payments in connection with the carrying out of such contracts which said Town of Limon may be required to make under the law.

161.2. PUBLICATION OF LEGAL NOTICES.

Except in those cases where the ordinances of the Town of Limon shall require legal notices to be published in the official paper of the Town of Limon, it shall be lawful to publish such notices in any newspaper in the Town of Limon qualified under the statutes of the State of Colorado to publish legal notices.

161.3. PURCHASES OF THE TOWN OF LIMON.

Purchases by the Town of Limon shall be governed by the Purchasing Policy of the Town of Limon which must be approved and/or amended by Resolution of the Board of Trustees.

162 - Budget

162.1. Budget Required.

The Town of Limon is required to prepare an annual budget in accordance with the statutes of the State of Colorado.

162.2. Annual Appropriation Bill.

Pursuant to statute, the Board of Trustees of Limon shall within the last quarter of each fiscal year pass an ordinance to be termed the Annual Appropriation Bill for the next fiscal year.

162.3. Nature and Scope of Budget.

Pursuant to statute, the budget for the Town of Limon, being a local government, shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, boards, commissions and institutions, including publicly owned or operated utilities and enterprises; the actual or estimated operating deficits from prior years; all interest and debt redemption charges during the budget year; expenditures for capital projects to be undertaken or executed during the budget year. In addition thereto, the budget shall set forth the anticipated income and other means of financing the proposed expenditures for the fiscal year.

163 - Depository for Funds of the Town of Limon

The official depository for the Town of Limon shall be such bank or banks as may from time to time be designated by the Board of Trustees.

164 - Reserved

HISTORY: Cigarette tax under 1958 Code; Amended October 5, 1972 by Ordinance No. 223; Repealed June 7, 1973 by Ordinance No. 227

165 – Use of Public Right-of-Way

(Entire Section added by Ordinance No. 503 on July 7, 2005)

165.1. Purpose and Objectives.

165.1.1. Purpose.

This ordinance provides principles, procedures and associated funding for the placement of Structures and Facilities, construction excavation encroachments and work activities within or upon any public right of way, and to protect the integrity of the road system. To achieve

these purposes, it is necessary to require permits of private users of the public rights of way, to establish permit procedures and to fix and collect fees and charges.

165.1.2. Objectives.

Public and private uses of public rights of way for location of Facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the Town must insure that the primary purpose of the right of way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, roadways, facilities and properties should be protected, competing uses must be reconciled, and the public safety preserved. The use of the right of way corridors by private users is secondary to these public objectives, and the movement of traffic. This code is intended to strike a balance between the public need for efficient, safe transportation routes and the use of rights of way for location of Facilities by public and private entities. It thus has several objectives:

165.1.3. To insure that the public safety is maintained and that public inconvenience is minimized.

165.1.4. To protect the Town's infrastructure investment by establishing repair standards for the pavement, facilities, and property in the public rights of way, when work is accomplished.

165.1.5. To facilitate work within the rights of way through the standardization of regulations.

165.1.6. To maintain an efficient permit process.

165.1.7. To conserve and fairly apportion the limited physical capacity of the public rights of way held in public trust by the Town.

165.1.8. To establish a public policy for enabling the Town to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.

165.1.9. To promote cooperation among the Permittees (as defined herein) and the Town in the occupation of the public rights of way, and work therein, in order to (i) eliminate duplication that is wasteful, unnecessary or unsightly, (ii) lower the Permittee's and the Town's costs of providing services to the public, and (iii) minimize street cuts.

165.1.10. To assure that the Town can continue to fairly and responsibly protect the public health, safety, and welfare.

165.2. Definitions.

For the purpose of section **165** the following words shall have the following meanings:

165.2.1. Access Vault: any structure containing one or more ducts, conduits, manholes, handhole or other such facilities in Permittee's facilities.

165.2.2. Appurtenances: transformers, switching boxes, gas regulator stations, terminal boxes, meter cabinets, pedestals, junction boxes, handholes substations, system amplifiers, power supplies, pump stations, manholes, valves and valve housings and other devices that are necessary to the function of electric, communications, cable television, water, sewer, storm water, natural gas and other utilities and services.

165.2.3. Town: the Town of Limon, Colorado.

165.2.4. Contractor: a person, partnership, corporation, or other legal entity who undertakes to construct, install, alter, move, remove, trim, demolish, repair, replace, excavate, or add to any improvements covered by this code, that requires work, workers, and/or equipment to be in the Public Right of Way in the process of performing the above named operations.

165.2.5. Degradation: a decrease in the useful life of the right of way or damage to any landscaping within the rights of way caused by excavation in or disturbance of the right of way, resulting in the need to reconstruct the surface and/or subsurface structure of such right of way earlier than would be required if the excavation or disturbance did not occur.

165.2.6. Developer: the person, partnership, corporation, or other legal entity who is improving a parcel of land within the Town and who is legally responsible to the Town for the construction of improvements within a subdivision or as a condition of a building permit.]

165.2.7. Director: the Town Manager of the Town or his/her authorized representative.

165.2.8. Duct or **Conduit:** a single enclosed raceway for cables, fiber optics or other wires, or a pipe or canal used to convey fluids or gases.

165.2.9. Emergency: any event which may threaten public health or safety, or that results in an interruption in the provision of services, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged electrical and communications facilities, and advanced notice of needed repairs is impracticable under the circumstances.

165.2.10. Excavate: to dig into or in any way remove or penetrate any part of a right of way.

165.2.11. Facilities: including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, street lights, ducts, fixtures and appurtenances and other like equipment used in connection with transmitting, receiving, distributing, offering, and providing utility and other services.

165.2.12. Fence: any artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected to enclose partition, beautify, mark, or screen areas of land.

155.2.13. Infrastructure: any public facility, system, or improvement including, without limitation, water and sewer mains and appurtenances, storm drains and structures, streets, alleys, traffic signal poles and appurtenances, conduits, signs, landscape improvements, sidewalks, and public safety equipment.

165.2.14. Landscaping: materials, including without limitation, grass, ground cover, shrubs, vines, hedges, or trees and non-living natural materials commonly used in landscape development, a well as attendant irrigation systems.

165.2.15. Permit: any authorization for use of the public rights of way granted in accordance with the terms of this ordinance, and the laws and policies of the Town.

165.2.16. Permittee: the holder of a valid Permit issued pursuant to section **165.**

165.2.17. Person: any person, firm, partnership, special, metropolitan, or general district, association, corporation, company, or organization of any kind.

165.2.18. Public Right of Way or **Right of Way** or **Public Way:** any public street, way, place, alley, sidewalk, easement, park, square, plaza, and Town-owned right of way dedicated to public use.

165.2.19. Routine Maintenance: any above ground activity that does not affect the surface of the right-of-way nor affects the use of the right-of-way.

165.2.20. Specifications: engineering regulations, construction specifications, and design standards adopted by the Town.

165.2.21. Structure: anything constructed or erected with a fixed location below, on, or above grade, including, without limitation, foundations, fences, retaining walls, awnings, balconies, and canopies.

165.2.22. Surplus Ducts or **Conduits:** are Conduits or Ducts other than those occupied by Permittee or any prior Permittee, or unoccupied Ducts held by Permittee as emergency use spares, or other unoccupied Ducts that Permittee reasonably expects to use within three (3) years from the date of a request for use.

165.2.23. Work: any labor performed on, or any use or storage of equipment or materials, including but not limited to, construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, and traffic signal devices. It shall also mean construction, maintenance, and repair of all underground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below surface, and installation of overhead poles used for any purpose.

165.3. Police Powers.

The Permittee's rights hereunder are subject to the police powers of the Town, which include the power to adopt and enforce codes and/or ordinances, including amendments to this code, necessary to the safety, health, and welfare of the public. The Permittee shall comply with all applicable laws, codes and ordinances enacted, or hereafter enacted, by the Town or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Town reserves the right to exercise its police powers, notwithstanding anything in this code and the Permit to the contrary. Any conflict between the provisions of the code, ordinances or the Permit and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

165.4. Permit Required.

165.4.1. No person except an employee or official of the Town or a person exempted by contract with the

Town shall undertake or permit to be undertaken any construction, excavation, or Work in the public rights of way without first obtaining a Permit from the Town as set forth in section **165**, except as provided in section **165.4.2.** and in Section **165.22.** Each Permit obtained, along with associated documents, shall be maintained on the job site and available for inspection upon request by any officer or employee of the Town.

165.4.2. Work in State of Colorado highway right-of-way shall be exempt from this requirement.

165.4.3. Construction, Excavation or Work Area. No Permittee shall perform construction, excavation, or Work in an area larger or at a location different, or for a longer period of time than that specified in the Permit or Permit application. If, after construction, excavation, or Work is commenced under an approved Permit, it becomes necessary to perform construction, excavation, or Work in a larger or different area than originally requested under the application or for a longer period of time, the Permittee shall notify the Director immediately and within twenty-four hours shall file a supplementary application for the additional construction, excavation, or Work.

165.4.4. Permit Transferability or Assignability. The applicant may subcontract the Work to be performed under a Permit provided that the Permittee shall be and remain responsible for the performance of the Work under the Permit and all insurance and financial security as required. Permits are transferable and assignable if the transferee or assignee posts all required security pursuant to this code and agrees to be bound by all requirements of the Permit and this code.

165.4.5. Developer Ownership of Public Infrastructure. In Town, the physical construction of public infrastructure in new developments is the responsibility of the developer of the land. Ownership of that infrastructure remains with the developer of the land until acceptance by the Town. Any Developer of land where Work is undertaken on infrastructure that is within a Public Right of Way, but prior to acceptance by the Town, shall obtain a Permit from the Town. The Town will not accept public infrastructure improvements, where Work performed is not in accordance with applicable Town specifications and applicable provisions of section **165.**

165.4.6. Any person or utility found to be conducting any excavation activity within the public right of way without having first obtained the required Permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a Permit before Work may be restarted. A surcharge to be set by Board of Trustees resolution shall be required in addition to all applicable Permit fees.

165.5. Permit Application – Permit Contents.

165.5.1. An applicant for a Permit to allow construction, excavation, or Work in the public right of way under this section shall:

165.5.1.1. File a written application on forms furnished by the Town which include the following: the date of application; the name and address of the applicant; the name and address of the developer, contractor or subcontractor licensed to perform Work in the public right of way; the exact location of the proposed construction, excavation or Work activity; the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the construction, excavation or Work; the purpose of the proposed construction, excavation or Work; the dates for beginning and ending the proposed construction, excavation or Work; proposed hours of Work; itemization of the total cost of restoration, based upon R.S. Means Estimating Standards or at the discretion of the Director, other published street repair cost estimating standards; and type of Work proposed.

165.5.1.2. Include an affirmative statement that the applicant or its contractor is not delinquent in payments due the Town on prior Work.

165.5.1.3. Attach copies of all Permits or licenses (including required insurance, deposits, bonding, and warranties) required to do the proposed Work, and to Work in the public rights of way, if licenses or Permits are required under the laws of the United States, the State of Colorado, or codes, ordinances or regulations of the Town. If relevant permits or licenses have been applied for but not yet received, provide a written statement so indicating. Copies of any such permits or licenses shall be provided to the Town within forty-eight (48) hours after receipt.

165.5.1.4. Provide a satisfactory plan of Work acceptable to the Director showing protection of the subject property and adjacent properties.

165.5.1.5. Provide a satisfactory plan for the protection of existing landscaping acceptable to the Director, when the Town determines that damage may occur.

165.5.1.6. Include a signed statement verifying that all orders issued by the Town to the applicant, requiring

the applicant to correct deficiencies under previous Permits issued under this code, have been satisfied. This verification shall not apply to outstanding claims that are honestly and reasonably disputed claims by the applicant, if the applicant and the Town are negotiating in good faith to resolve the dispute.

165.5.1.7. Include with the application engineering construction drawings or site plans for the proposed construction, excavation, or Work.

165.5.1.8. Include with the application a satisfactory traffic control, stormwater management and erosion protection plan for the proposed construction, excavation, or Work.

165.5.1.9. Include a statement indicating any proposed joint use or ownership of the Facility; any known existing Facility or Permit of the applicant at this location; any known existing Facility of others with which the proposed installations might conflict; and the name, address and telephone number of a representative of the applicant available to review proposed locations at the site.

165.5.1.10. Pay the fees prescribed by this code.

165.5.2. Applicants shall update any new information on Permit applications within ten (10) days after any material change occurs.

165.5.3. Joint Applications. Applicants may apply jointly for Permits to Work in public rights of way at the same time and place. Applicants who apply jointly for Permits may share in the payment of the Permit fee. Applicants must agree among themselves as to the portion each shall pay.

165.6. Permit Fee.

165.6.1. Before a Permit is issued pursuant to this code, the applicant shall pay to the Town a Permit fee, which shall be determined in accordance with a fee schedule adopted by the Board of Trustees by resolution. Fees will be reasonably related to the costs inherent in managing the public rights of way. As used in section **165**, these costs include, but are not necessarily limited to, the costs of permitting rights of way occupants, verifying rights of way occupation, mapping rights of way occupations, inspecting job sites and rights of way restorations, administering section **165**, and costs incurred by the Town relating to the degradation of the rights of way, i.e., the cost to achieve a level of restoration as determined by the Town at the time the Permit is issued.

165.6.2. The portion of the Permit fee relating to degradation/restoration costs shall be reduced by the Town in cases where the applicant demonstrates to the satisfaction of the Director that the excavation proposed will be used by two or more entities, legally and financially unrelated, for the installation, maintenance or repair of Facilities.

165.6.3. Any Permit for temporary use or occupation of the public rights of way, where there is no construction involved, shall not require payment of a degradation fee as part of the Permit fee.

165.6.4. An applicant may avoid the imposition of a degradation/restoration fee if it agrees to perform the required restoration of the public right-of-way to the Town's standards. The applicant shall decide at the time of application whether the applicant will perform the required restoration, and the applicant's decision shall be final.

165.6.4.1. In the roadway, the disturbed pavement area will be removed and the subgrade will be scarified and recompacted

165.6.4.2. A minimum of twelve (12) feet wide of pavement will be removed and the subgrade will be scarified and recompacted if the necessary removal is in excess of five (5) feet wide and the overall length exceeds forty (40) feet.

165.6.4.3. For cuts in gravel roadways the subbase must be scarified and recompacted and dressed with a minimum of four (4) inches of suitable road base material.

165.6.5. That portion of any Permit fee relating to degradation/restoration costs shall be segregated by the Town into an account to cover general street maintenance and construction.

165.7. Insurance and Indemnification.

165.7.1. Unless otherwise specified in a franchise agreement between the Permittee and the Town, prior to the granting of any Permit, the Permittee shall file with the Town an insurance policy or certificate in a form satisfactory to the Town with coverage as follows:

165.7.1.1. The Permittee shall carry and maintain in full effect at all times a commercial general liability policy, including broad form property damage, completed operations contractual liability, explosion hazard, collapse hazard, underground property damage hazard, commonly known as XCU, for limits not less then one

million dollars ($1,000,000.00) each occurrence for damages of bodily injury or death to one or more persons; and five hundred thousand dollars ($500,000.00) each occurrence for damage to or destruction of property.

165.7.1.2. Workers compensation insurance as required by State law.

165.7.1.3. Town departments shall be relieved of the obligation of submitting a certificate of insurance.

165.7.2. Whenever any person has filed with the Town evidence of insurance as required, any additional or subsequent Permit holder in the employ of said initial person may, at the discretion of the Town, be excused from depositing or filing any additional evidence of insurance if such employee is fully covered by the Permittee's insurance policy.

165.7.3. Each Permittee shall construct, maintain, and operate its facilities in a manner which provides protection against injury or damage to persons or property.

165.7.3.1. The Permittee, for itself and its related entities, agents, employees, subcontractors, and the agents and employees of said subcontractors, shall save the Town harmless, defend, and indemnify the Town, its successors, assigns, officers, employees, agents, and appointed and elected officials from and against all liability or damage and all claims or demands whatsoever in nature unless caused by the negligent or intentional acts of the Town, and reimburse the Town for all its reasonable expenses, as incurred, arising out of the installation, maintenance, operation or any other Work or activity in the public right of way or by the Permittee related to its use thereof, including, but not limited to, the actions of the Permittee, its employees, agents, contractors, related entities, successors and assigns, or the securing of and the exercise by the Permittee of the Permit rights granted in the Permit, including any third party claims, administrative hearings, and litigation; whether or not any act or omission complained of is authorized, allowed, or prohibited by this code or other applicable law.

165.7.3.2. The terms of each contract awarded by the Permittee for activities pursuant to a Permit shall contain indemnity provisions whereby the contractor shall indemnify the Town to the same extent as described above.

165.7.3.3. Following the receipt of written notification of any claim the Permittee shall have the right to defend the Town with regard to all third party actions, damages and penalties arising in any way out of the exercise of any rights in the Permit. If at any time, however, Permittee refuses to defend, and the Town elects to defend itself with regard to such matters, the Permittee shall pay all reasonable expenses incurred by the Town related to its defense.

165.7.3.4. In the event the Town institutes litigation against the Permittee for a breach of the Permit or for an interpretation of this code and the Town is the prevailing party, the Permittee shall reimburse the Town for all costs related hereto, including reasonable attorney's fees. The Permittee shall not be obligated to hold harmless or indemnify the Town for claims or demands to the extent that they are due to the negligence, or any intentional and/or willful acts of the Town or any of its officers, employees, or agents.

165.7.3.5. In the event the Permittee is a public entity, the indemnification requirements of this section shall be subject to the provisions of the Colorado Governmental Immunity Act.

165.8. Performance Bond/Letter of Credit.

165.8.1. Before any Permit required by section **165** shall be issued to an applicant, the applicant shall file with the Director a bond or letter of credit in favor of the Town in an amount equal to the total cost of construction, including labor and materials, or five thousand dollars, whichever is greater. The bond or letter of credit shall be executed by the applicant as principal and by at least one surety upon whom service of process may be had in the state. The bond or letter of credit shall be conditioned upon the applicant fully complying with all provisions of Town codes, ordinances, rules and regulations, and upon payment of all judgments and costs rendered against the applicant for any material violation of Town codes, ordinances or state statutes that may be recovered against the applicant by any person for damages arising out of any negligent or wrongful acts of the applicant in the performance of Work done pursuant to the Permit. The Town may bring an action on the bond or letter of credit on its own behalf or on behalf of any person so aggrieved as beneficiary. The bond or letter of credit must be approved by the Town's Town Manager as to form and as to the responsibility of the surety thereon prior to the issuance of the Permit. However, the Town may waive the requirements of any such bond or letter of credit or may permit the applicant to post a bond without surety thereon upon finding that the applicant has financial stability and assets located in

the state to satisfy any claims intended to be protected against the security required by section **165.8.**

165.8.2. A letter of responsibility will be accepted in lieu of a performance bond or letter of credit from all public utilities, and all franchised entities operating within the Town.

165.8.3. The performance bond, letter of credit or letter of responsibility shall remain in force and effect for a minimum of three years after completion and acceptance of the street cut, excavation or lane closure.

165.9.Performance Warranty/Guarantee.

165.9.1. Any warranty made hereunder shall serve as security for the performance of Work necessary to repair the public right of way if the Permittee fails to make the necessary repairs or to complete the Work under the Permit.

165.9.2. The Permittee, by acceptance of the Permit, expressly warrants and guarantees complete performance of the Work in a manner acceptable to the Town and warrants and guarantees all work done for a period of two (2) years after the date of probationary acceptance, and agrees to maintain upon demand and to make all necessary repairs during the two (2) year period. This warranty shall include all repairs and actions needed as a result of:

165.9.2.1. Defects in Workmanship.

165.9.2.2. Settling of fills or excavations.

165.9.2.3. Any unauthorized deviations from the approved plans and specifications.

165.9.2.4. Failure to barricade.

165.9.2.5. Failure to clean up during and after performance of the Work.

165.9.2.6. Any other violation of section **165** or the codes or ordinances of the Town.

165.9.3. The two (2) year warranty period shall run from the date of the Town's probationary acceptance of the Work. If repairs are required during the three (3) year warranty period, those repairs need only be warranted until the end of the initial two (2) year period starting with the date of probationary acceptance. It is not necessary that a new two (2) year warranty be provided for subsequent repairs after probationary acceptance.

165.9.4. At any time prior to completion of the two (2) year warranty period, the Town may notify the Permittee in writing of any needed repairs. Such repairs shall be completed within twenty four (24) hours if the defects are determined by the Town to be an imminent danger to the public health, safety and welfare. Non-emergency repairs shall be completed within thirty (30) calendar days after notice.

165.9.5. The warranty described in section **165.9.** shall cover only those areas of work undertaken by a Permittee, and not directly impacted by the work of any other Permittee or the Town. In the event that a portion of work warranted by Permittee is subsequently impacted by work of another Permittee or the Town during the warranty period, that other Permittee or the Town shall assume responsibility for repair to the subsequently impacted section of right of way.

165.10. Inspections.

A minimum of three inspections shall take place. First, the Permittee shall request that the Town conduct a pre-construction inspection, to determine any necessary conditions for the Permit. Second, the Permittee shall notify the Town immediately after completion of Work operations. The Town shall inspect the completed Work within twenty one (21) days of Permittee's notification. Probationary acceptance will be made if all Work meets Town and Permit standards. Third, approximately thirty days prior to the expiration of the two-year guarantee, the Town shall conduct a final inspection of the completed Work. If the Work is still satisfactory the bond or letter of credit shall be returned or allowed to expire, with a letter of final acceptance, less any amounts needed to complete Work not done by Permittee. Upon review of the application for a Permit, the Director shall determine how many additional inspections, if any, may be required. For Work that does not involve material disturbance in the rights of way, the Director shall waive the final inspection and the performance bond/letter of credit.

165.11. Public Safety.

The Permittee shall maintain a safe Work area, free of safety hazards. The Town may make any repair necessary to eliminate any safety hazards not performed as directed. Any such Work performed by the Town shall be completed and billed to the Permittee at overtime rates. The Permittee shall pay all such charges within 30 days of the statement date. If the Permittee fails to pay such charges within the prescribed time period, the Town may, in addition to taking other collection remedies, seek reimbursement through the warranty guarantee. The

Town shall not issue any further Permits of any kind to said Permittee, until all outstanding charges (except those outstanding charges that are honestly and reasonably disputed by the Permittee and being negotiated in good faith with the Town) have been paid in full.

165.12. Time of Completion.

All Work covered by the Permit shall be completed by the date stated on the application. Permits shall be void if Work has not commenced three months after issuance, unless the Director has granted an extension. Performance bonds, letters of credit or letters of responsibility deposited as a performance/warranty guarantee for individual Permits will be returned after voiding of the Permit, with administrative and any other Town costs deducted.

165.13. Traffic Control.

165.13.1. When it is necessary to obstruct traffic, a traffic control plan shall be submitted to the Town prior to starting construction. No Permit will be issued until the Town approves the plan. No Permittee shall block access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless the Permittee provides the Town with written verification of written notice delivered to the owner or occupant of the facility, equipment or property at least 48 hours in advance. If a street closing is desired, the applicant will request the assistance and obtain the approval of the Director. It shall be the responsibility of the Permittee to notify and coordinate all Work in the public way with police, fire, ambulance, other government entities, and transit organizations.

165.13.2. When necessary for public safety, the Permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. The Director may require the use of flag persons.

165.13.3. Traffic control devices, as defined in Part VI of the Manual on Uniform Traffic Control Devices, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the Permittee. If used at night, they must be reflectorized and may be required to be illuminated or have barricade warning lights.

165.13.4. Oil flares or kerosene lanterns are not allowed as means of illumination. Nighttime work area flood lighting shall not be allowed to spill out of the construction area in such a way as to disturb, annoy, or endanger the comfort, health or peace of others.

165.13.5. Part VI of the Manual on Uniform Traffic Control Devices or any successor publication thereto shall be used as a guide for all maintenance and construction signing. The Permittee shall illustrate on the Permit the warning and control devices proposed for use. At the direction of the Director, such warning and control devices shall be modified.

165.13.6. Maintenance and Construction Signing. The Contractor shall be responsible for maintaining all work area signing and barricading during construction operations as well as any signs and barricades that are needed to protect roadway users and pedestrians during non-work hours. During non-work hours, all construction work area signs that are not appropriate shall be removed, covered, or turned around so that they do not face traffic. Any deficiencies noted by the Town shall be corrected immediately by the Contractor. If Contractor is not available or cannot be found, the Town may make such corrections and the Contractor shall pay the actual costs plus a penalty of fifty percent (50%) of the amount thereof.

165.14. General Rights of Way Use and Construction.

165.14.1. Right of Way Meetings. Permittee will make reasonable efforts to attend and participate in meetings of the Town, of which the Permittee is made aware, regarding right of way issues that may impact its facilities, including, planning meetings to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Permittee shall work with other providers, licensees, Permittees, and franchisees so as to reduce so far as possible the number of right of way cuts within the Town and the amount of pedestrian and vehicular traffic that is obstructed or impeded.

165.14.2. Minimal Interference. Work in the right of way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Permittee's facilities shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Town, or with any other pipes, wires, conduits, pedestals, structures, or other Facilities that may have been laid in the rights of way by, or under, the Town's authority. The Permittee's Facilities shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements

the Town may deem proper to make or to unnecessarily hinder or obstruct the free use of the rights of way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic.

165.14.3. Underground Construction and Use of Poles.

165.14.3.1. When required by general codes, ordinances, resolutions, regulations or rules of the Town or applicable State or federal law, Permittee's Facilities shall be placed underground at no cost to the Town. Placing Facilities underground does not preclude the use of ground-mounted appurtenances.

165.14.3.2. Where all Facilities are installed underground at the time of Permittee's construction, or when all such Facilities are subsequently placed underground, all Permittee Facilities shall also be placed underground at no expense to the Town unless funding is generally available for such relocation to all users of the rights of way. Related equipment, such as pedestals, must be placed in accordance with the Town's applicable code requirements and rules.

165.14.3.3. For above ground Facilities, the Permittee shall utilize existing poles and conduit.

165.14.3.4. Should the Town desire to place its own Facilities in trenches or bores opened by the Permittee, the Permittee shall cooperate with the Town in any construction by the Permittee that involves trenching or boring, provided that the Town has first notified the Permittee in some manner that it is interested in sharing the trenches or bores in the area where the Permittee's construction is occurring. The Permittee shall allow the Town to place its Facilities in the Permittee's trenches and bores, provided the Town incurs any incremental increase in cost of the trenching and boring. Should the Town desire to install Ducts or Conduit for the possible use of other entities, then the Permittee shall allow the Town to place these Facilities in the Permittee's trenches and bores, provided the Town shares proportionally in the cost of trenching and boring. The Town shall be responsible for maintaining its respective Facilities buried in the Permittee's trenches and bores under this section.

165.14.4. Use of Conduits by the Town. Unless otherwise restricted by tariff, the Town may install or affix and maintain its own Facilities for Town purposes in or upon any and all of Permittee's ducts, conduits or equipment in the rights of way and other public places, at a charge to be negotiated between the parties, to the extent space therein or thereon is reasonably available, and pursuant to all applicable ordinances and codes. For the purposes of this section, "Town purposes" includes, but is not limited to, the use of the structures and installations for Town fire, police, traffic, utility, telephone, and/or signal systems.

165.14.5. Common Users.

165.14.5.1. The rights of way have a finite capacity for containing Facilities. Therefore, whenever the Town determines it is impracticable to permit construction of an underground Conduit system by any other entity which may at the time have authority to construct or maintain Conduits or Ducts in the rights of way, but excluding entities providing services in competition with Permittee, and unless otherwise prohibited by federal or state law or regulations, the Town may require Permittee to afford to such entity the right to use Permittee's Surplus Ducts or Conduits in common with Permittee, pursuant to the terms and conditions of an agreement for use of Surplus Ducts or Conduits entered into by Permittee and the other entity. Nothing herein shall require Permittee to enter into an agreement with such entity if, in Permittee's reasonable determination, such an agreement could compromise the integrity of the Permittee's facilities.

165.14.5.2. All Facilities shall meet any applicable local, State, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between Permittee and the other common user. Permittee may, at its option, correct any attachment deficiencies and charge the common user for its costs. Each common user shall pay Permittee for any fines, fees, damages or other costs the common user's attachments cause Permittee to incur.

165.15. Joint Planning and Construction; Coordination of Excavations.

165.15.1. Excavations in Town rights of way disrupt and interfere with the public use of Town streets and damage the pavement and landscaping. The purpose of this Section is to reduce this disruption, interference and damage by promoting better coordination among Permittees making excavations in Town rights of way and between these Permittees and the Town. Better coordination will assist in minimizing the number of excavations being made wherever feasible, and will ensure the excavations in Town rights of way are, to the maximum extent possible, performed before, rather than after, the resurfacing of the streets by the Town.

165.15.2. Any Permittee owning, operating or installing facilities in Town rights of way, providing water, sewer, gas, electric, communication, video or other utility services, shall meet annually with the Director, at the Director's request to discuss Permittee's excavation master plan. At such meeting, to the extent not already in possession of the Town, Permittee shall submit documentation, in a form required by the Director, showing a location of the Permittee's existing facilities in the Town rights of way. Permittee shall discuss with the Director, its excavation master plan, and identify planned major excavation Work in the Town. The Director may make his own record on a map, drawing or other documentation, of each Permittee's planned major excavation Work in the Town; provided, however, that no such document prepared by the Director shall identify a particular entity, or the planned major excavation Work of that particular entity. Permittee shall meet with the Director to discuss an initial excavation master plan no later than sixty (60) days after submitting its first Permit application. Thereafter, each Permittee shall submit annually, on the first regular business day of January, a revised and updated excavation master plan. Such revised and updated plan shall be submitted in both hard copy and digital format. As used in this section, the term "planned major excavation Work" refers to any future excavations planned by the Permittee when the excavation master plan or update is submitted that will affect any Town right of way for more than five (5) days, provided that the Permittee shall not be required to identify future major excavations planned to occur more than three (2) years after the date that the Permittee's master plan or update is discussed. Between the annual meetings to discuss planned major excavation Work, Permittee shall use its bests efforts to inform the Director of any substantial changes in the planned major excavation Work discussed at the annual meeting.

165.15.3. The Director shall prepare a Repaving Plan showing the street resurfacing planned by the Town. For purposes of Section **165.15.**, the Repaving Plan shall include a landscaping or other right of way improvement plan. The Repaving Plan shall be revised and updated on an annual basis after meeting to discuss the Permittee's and Town Department's master plans and updates. The Director shall make the Town's Repaving Plan available for public inspection. In addition, after determining the street resurfacing Work that is proposed for each year, the Director shall send a notice of the proposed Work to all Permittees that have had an annual meeting with the Director.

165.15.4. Prior to applying for a Permit, any Person planning to excavate in the Town's rights of way shall review the Town's Repaving Plan on file with the Director and shall coordinate, to the extent practicable, with the utility and street Work shown on such plans to minimize damage to, and avoid undue disruption and interference with the public use of such rights of way.

165.15.5. In performing location of facilities in the public rights of way in preparation for construction under a Permit, Permittee shall compile all information obtained regarding its or any other facilities in the public rights of way related to a particular Permit, and shall make that information available to the Town in a written and verified format acceptable to the Director. If the Permittee fails to provide the locate information requested by the Town, the Town may obtain this information and charge the Permittee the actual costs for obtaining the information.

165.15.6. Prior to undertaking any Work in the rights of way or related landscaping, the Town may notify all Permittees of the Town Work to be performed. Upon such notification, all Permittees shall, within seven (7) days, locate their Facilities in the rights of way in which the Work will be performed, and provide documentation in a format acceptable to the Director of the Permittee's facilities in that right of way.

165.16. Minimizing the Impacts of Work in the Rights of Way.

165.16.1. Relocation and Protection of Utilities. Before beginning excavation in any public way, a Permittee shall contact the Utility Notification Center of Colorado (UNCC) and, to the extent required by C.R.S. §9-1.5-102 et seq., make inquiries of all ditch companies, utility companies, districts, local government departments, and all other agencies that might have facilities in the area of Work to determine possible conflicts. The Permittee shall contact the UNCC and request field locations of all facilities in the area pursuant to UNCC requirements. Field locations shall be marked prior to commencing Work. The Permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the Work from damage during construction or settlement of trenches subsequent to construction.

165.16.2. Noise, Dust, Debris, Hours of Work. Each Permittee shall conduct Work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the Work, the Permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No Work shall be done between the hours of 8:00 p.m. and 7:00 a.m. nor at any time on Saturday or Sunday, except with the written permission of the Director, or in case of an emergency.

165.16.3. Trash and Construction Materials. Each Permittee shall maintain the Work site so that:

165.16.3.1. Trash and construction materials are contained so that they are not blown off of the construction site.

165.16.3.2. Trash is removed from a construction site often enough so that it does not become a health, fire, or safety hazard or public nuisance.

165.16.3.3. Trash dumpsters and storage or construction trailers are not placed in the street without specific approval of the Director.

165.16.4. Deposit of Dirt and Material on Roadways. Each Permittee shall utilize their best efforts to eliminate the tracking of mud or debris upon any street or sidewalk. Streets and sidewalks shall be cleaned of mud and debris at the end of each day. All equipment and trucks tracking mud and debris into the Right of Way shall be cleaned of mud and debris at the end of each day or as directed by the Director.

165.16.5. Protection of Trees and Landscaping. Each Permittee shall protect trees, landscape, and landscape features as required by the Town. All protective measures shall be provided at the expense of the Permittee.

165.16.6. Protection of Paved Surfaces From Equipment Damage. Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles that will damage pavement surfaces are not permitted on paved surface unless specific precautions are taken to protect the surface. The Permittee will be responsible for any damage caused to the pavement by the operation of such equipment and, shall repair such surfaces. Failure to do so will result in the use of the applicant's performance/warranty guarantee by the Town to repair any damage, and, possibly, the requirement of additional warranty(s).

165.16.7. Protection of Property. Each Permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The Permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the Work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out Work in the public way.

165.16.8. Clean-Up. As the Work progresses, all public rights of way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the Permittee.

165.16.9. Preservation of Monuments. A Permittee shall not disturb any surface monuments, property marks or survey hubs and points found on the line of Work unless approval is obtained from the Director. Any monuments, hubs, and points disturbed will be replaced by a Colorado Registered Land Surveyor at the Permittee's expense.

165.16.10. Each Permittee shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a Work site is not impacted.

165.16.11. Each Permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk. Such provision shall be included in the traffic control plan.

165.16.12. Each Permittee shall clear all snow and ice hazards from public sidewalks at the Work site by noon following a snowfall in conformance with Town Code.

165.17. Standards for Repairs and Restoration.

165.17.1. Permittee Responsibility. The Permittee shall be fully responsible for the cost and actual performance of all Work in the public way. The Permittee shall do all Work in conformance with any and all engineering regulations, construction specifications, and design standards adopted by the Town. These standards shall apply to all Work in the public way unless otherwise indicated in the Permit.

165.17.2. All restoration shall result in a Work site condition equal to or better than that which existed prior to construction. In addition to the regulations, specifications and standards referred to in section **165.17.1.** the following provisions shall apply to Work in the public rights of way of the Town.

165.17.2.1. Pavement cuts shall be filled with compacted select material. Either concrete or asphalt patches will be placed to match the existing street cross section.

165.17.2.2. Select fill shall be placed in an excavation to the density required by Town compaction specifications.

165.17.2.3. The type, gradation, placement, compaction, and testing of the granular backfill material shall meet or exceed all requirements specified in design and construction standards adopted by the Town.

165.17.2.4. The new asphalt will be placed in lifts (3 inches maximum) and compacted upon placement. Asphalt depths will be governed the existing cross section of the street but not less than 4 inches of full deep asphalt shall be used to fill a street cut regardless of the existing cross section. Concrete meeting all construction standards of the Town shall be used to replace concrete pavement wherever it occurs.

165.18. Construction and Restoration Standards for Newly Constructed or Overlayed Streets.

165.18.1. No person shall cause an open trench excavation or potholing of utilities in the pavement of any public right of way for a period of three years from the completion of construction or resurfacing except in compliance with the provisions of this Section.

165.18.2. Application. Any application for a Permit to excavate in a public right of way subject to the requirements of this section shall contain the following information:

165.18.2.1. A detailed and dimensional engineering plan that identifies and accurately represents the Town rights of way or property that will be impacted by the proposed excavation, as well as adjacent streets, and the method of construction.

165.18.2.2. The street width or alley width including curb and gutter over the total length of each Town block that will be impacted by the proposed excavation.

165.18.2.3. The location, width, length, and depth of the proposed excavation.

165.18.2.4. The total area of existing street or alley pavement in each individual Town block that will be impacted by the proposed excavation.

165.18.2.5. A written statement addressing the criteria for approval.

165.18.3. Criteria for Approval. No Permit for excavation in the right of way of new streets shall be approved unless the Director finds that all of the following criteria have been met:

165.18.3.1. Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts.

165.18.3.2. Alternative utility alignments that do not involve excavating the street or alley are found to be impracticable.

165.18.3.3. The proposed excavation cannot reasonably be delayed until after the three year deferment period has lapsed.

165.18.4. Exemptions for Emergency Operations. Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Persons with prior authorization from the Town to perform emergency maintenance operations within the public rights of way, shall be exempted from this section. Any person commencing emergency maintenance operations shall submit detailed engineering plans, construction methods and remediation plans no later than three Working days after initiating the emergency maintenance operation.

165.18.5. Exemptions for Non-Emergency Operations. A Permittee may apply to the Director for an exemption under this section when the construction is necessary in the public interest or to provide a public service. By way of example, but not by limitation, an exemption could be requested in order to provide services to a part of the Town where no service would be available without construction. If a non- emergency exemption is granted to disturb a public way within the three (3) year period, the Director may, in his sole discretion, impose additional restoration requirements, including but not necessarily limited to, repaving of a larger area, such as an entire block in which the construction occurs.

165.18.6. Construction and Restoration Standards for Newly Constructed or Overlayed Streets and Alleys. The streets shall be restored and repaired in accordance with design and construction standards adopted the Town and guaranteed in accordance with Section **165.10.**

165.19. Relocation of Facilities.

If at any time the Town requests the Permittee to relocate is Facilities, in order to allow the Town to make any public use of rights of way, or if at any time it shall become necessary because of a change in the grade or for any other purpose by reason of the improving, repairing, constructing, or maintaining of any rights of

way, or reason of traffic conditions, public safety or by reason of installation of any type of structure of public improvement the Town or other public agency or special district, and any general program for the undergrounding of such facilities, to move or change the Permittee's Facilities within or adjacent to rights of way in any manner, either temporarily or permanently, the Town shall notify the Permittee at least 90 days in advance, except in the case of emergencies, of the Town's intention to perform or have such Work performed. The Permittee shall thereupon, at no cost to the Town, accomplish the necessary relocation, removal or change within a reasonable time from the date of the notification, but in no event later than three Working days prior to the date the Town has notified the Permittee that it intends to commence its Work or immediately in the case of emergencies. Upon the Permittee's failure to accomplish such Work, the Town or other public agencies or special district may perform such Work at the Permittee's expense and the Permittee shall reimburse the Town or other agency within 30 days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to construction by Permittee at the Permittee's expense. Notwithstanding the requirements of Section **165**, a Permittee may request additional time to complete a relocation project. The Director shall grant a reasonable extension if in his sole discretion, the extension will not adversely affect the Town's project.

165.20. Abandonment and Removal of Facilities.

165.20.1. Notification of Abandoned Facilities.

Any Permittee that intends to discontinue use of any Facilities within the public rights of way shall notify the Director in writing of the intent to discontinue use. Such notice shall describe the Facilities for which the use is to be discontinued, a date of discontinuance of use, which date shall not be less than thirty (30) days from the date such notice is submitted to the Director and the method of removal and restoration. The Permittee may not remove, destroy or permanently disable any such Facilities during said thirty (30) day period without written approval of the Director. After thirty (30) days from the date of such notice, the Permittee shall remove and dispose of such Facilities as set forth in the notice, as the same may be modified by the Director, and shall complete such removal and disposal within six months, unless additional time is requested from and approved by the Director.

165.20.2. Conveyance of Facilities.

At the discretion of the Town, and upon written notice from the Director within thirty (30) days of the notice of abandonment, the Permittee may abandon the Facilities in place, and shall further convey full title and ownership of such abandoned Facilities to the Town. The consideration for the conveyance is the Town's permission to abandon the Facilities in place. The Permittee is responsible for all obligations as owner of the Facilities, or other liabilities associated therewith, until the conveyance to the Town is completed.

165.20.3. Abandonment of Facilities in Place. At the discretion of the Town, and upon written notice from the Director the Permittee may either:

165.20.3.1. Abandon the Facilities in place, and shall further convey full title and ownership of such abandoned Facilities to the Town. The consideration for the conveyance is the Town's permission to abandon the Facilities in place. The Permittee is responsible for all obligations as owner of the Facilities, or other liabilities associated therewith, until the conveyance to the Town is completed.

165.20.3.2. Abandon the Facilities in place, but the Permittee still retains the responsibility for all obligations as owner of the Facilities, or other liabilities associated therewith.

165.21. Emergency Procedures.

165.21.1. Any person maintaining Facilities in the public way may proceed with repairs upon existing facilities without a Permit when emergency circumstances demand that the Work be done immediately. The person doing the Work shall apply to the Town for a Permit on or before the third Working day after such Work has commenced. All emergency Work will require prior telephone notification to the Town Police and the appropriate fire protection agency.

165.21.2. Notifications.

If any damage occurs to an underground Facility or its protective covering, the Contractor shall notify the Facility's operator promptly. When the Facility's operator receives a damage notice, the Facility's operator shall promptly dispatch personnel to the damage area to investigate. If the damage results in the escape of any inflammable, toxic, or corrosive gas or liquid or endangers life, health, or property, the Contractor responsible shall immediately notify the Facility's

operator and 911 and take immediate action to protect the public and nearby properties.

165.22. Revocation of Permits and Stop Work Orders.

165.22.1. Any Permit may be revoked or suspended by the Director, after written notice to the Permittee for:

165.22.1.1. Violation of any material condition of the Permit or of any material provision of this code.

165.22.1.2. Violation of any material provision of any other ocde or ordinance of the Town or state law relating to the Work.

165.22.1.3. Existence of any condition or performance of any act that the Town determines constitutes or causes a condition endangering life or damage to property.

165.22.2. Stop Work Orders. A Stop Work Order may be issued by the Director to any person or persons doing or causing any Work to be done in the Public Way for:

165.22.2.1. Working without a Permit except for routine maintenance or emergency repairs to existing Facilities as provided for in this code.

165.22.2.2. Doing work in violation of any provisions of this code, or any other code or ordinance of the Town, or state law relating to the work.

165.22.2.3. Performing any act, which Town determines constitutes or causes a condition that either endangers life or property.

165.22.3. A suspension or revocation by the Director, and a Stop Work Order, shall take effect immediately upon notice to the person performing the Work in the public way, or to the Permittee's last known address.

165.22.4. Any suspension or revocation or Stop Work Order may be appealed by the Permittee to the Town Manager by filing a written notice of appeal within five (5) working days of the action.

165.23. Appeals Procedure.

Any decision rendered by the Director or Town Manager pursuant to this code may be appealed within thirty (30) days by the Permittee to the Board of Trustees in accordance with the rules and procedures established by that body.

165.24. Penalty.

Any person who violates the provisions of this code as aforesaid shall upon conviction, be subject to a fine of not more than Five Hundred Dollars ($500.00). Each day that such violation shall continue shall constitute a separate and distinct offense.

165.25. Severability.

All sections, subsections, provisions and parts of this code shall be severable, and if any section, provision, or portion of this code is declared or ruled invalid or otherwise invalidated by any court or agency of valid jurisdiction, such declaration or ruling shall not affect the validity of any other section, provision or portion of this code, and all other sections, subsections, provisions and portions of this ordinance shall remain in full force and effect.

165.26. Right of Way Permit Fees.

165.26.1. Degradation Costs.

165.26.1.1. The formula for Degradation Costs is provided in Table 1 – 30-year design standard. Table 2 illustrates a hypothetical calculation.

165.26.1.2. Degradation Costs will be reviewed and may be changed by Resolution of the Board of Trustees.

165.26.2. Administrative/Management Cost.

165.26.2.1. The formula for determining that portion of the Permit fee relating to Administrative or Management Costs is as follows:

<u>Labor</u> (X) <u>hours of staff time involved in connection with granting and oversight of permit</u> = Permit Fee for Administrative/Management Costs

165.26.2.2. In connection with this formula the following assumptions are made:

- Labor = hourly rate + benefits + indirect costs
- Inspectors are paid $20 per hour
- Engineers are paid $65 per hour
- Clerical staff is paid $15 per hour
- Benefits = 45% of salary
- Indirect costs = 25% of salary

165.26.2.3. Administrative/Management Costs will be reviewed and may be changed by Resolution of the Board of Trustees.

165.26.3. TABLE 2 - Recommended Cost of Recovery Method

Cost per Square Yard for Streets, Overlays and Sealcoats X Depreciation Rate X Area of Influence (1)

165.26.4.1. Example

- Assumptions: Street is 16 years old
- Overlay is 5 years old
- Sealcoat is 1 year old
- Area of cut = 3 feet x 3 feet
- Area of influence = 9 feet x 9 feet = 81 square feet = 9 square yards

	Cost per Square Yard	Depreciation Rate	Area of Influence	Degradation Cost
Concrete Street			0.0	$0.00
Asphalt Street	$45.00	60%	9.0	$243.00
Overlay	$10.00	50%	9.0	$45.00
Sealcoat	$1.00	80%	9.0	$7.20
Total Cost				$295.20

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165.26.4. TABLE 1 - Cost of Recovery Method (30 Year Street Design Standard)

Cost per Square Yard for Streets, Overlays and Sealcoats
X Depreciation Rate X Area of Influence (1)

Depreciation Rates

Street (2)

Age	Rate	Age	Rate
0	100%	21	44%
1	99%	22	41%
2	98%	23	37%
3	97%	24	34%
4	96%	25	31%
5	95%	26	28%
6	92%	27	25%
7	89%	28	21%
8	85%	29	18%
9	82%	30	15%
10	79%	31	
11	76%	32	
12	73%	33	
13	69%	34	
14	66%	35	
15	63%	36	
16	60%	37	
17	57%	38	
18	53%	39	
19	50%	40	
20	47%		

Overlays

Age	Rate
1	90%
2	80%
3	70%
4	60%
5	50%
6	40%
7	30%
8	20%
9	10%
10	0%

Sealcoats

Age	Rate
1	80%
2	60%
3	40%
4	20%
5	0%

Cost Per Square Yard (3)

Type	Cost
Concrete Reconstruction	
Asphalt Reconstruction	$45.00
Overlays	$10.00
Sealcoats	$1.00

(1) Area of influence is equal to area of the cut plus 3.0 feet on each side (expressed in sq. yds.)

(2) Depreciation rates are based on a 30-year street design standard. Depreciation for the first 5 years is 1.0% per year, followed by straight line depreciation less 15.0% for the remaining street design standard (25 years). Depreciation can occur at 1.0% per year after this time for up to 15 years or street reconstruction, whichever occurs first.

170 - EMPLOYEES

171 - Pay Roll Claims

171.1. MAYOR.

MAYOR AND TOWN CLERK TO ISSUE WARRANTS. The Mayor and Town Clerk be, and they are, hereby authorized to issue warrants, on or about the first and fifteenth days of each month, in payment of salaries and wages earned by town employees during the preceding pay period; the pay due to each employee to be certified in writing, to said officials by the head of such employees' department. All claims paid as aforesaid shall be included in the first Clerk's report of bills paid thereafter published.

172 - Social Security

172.1. Authority.

The 38th General Assembly of the State of Colorado, in regular session, enacted a statute, known as House Bill No. 291, which is the enabling Act provided for in Section 218 of Public Law 734, 81st Congress, which designated the Department of Employment Security, State of Colorado, to act as the Department to implement the coverage of employees and officers under the said Old Age and Survivors' Insurance System. The Town of Limon is hereby authorized to execute and deliver to the Department of Employment Security, State of Colorado, a plan, or plans, and agreement required under Section 5 of said enabling Act and the Social Security Act, to extend coverage to employees and officers of the Town of Limon and do all other necessary things to effectuate coverage of employees and officers under the Old Age and Survivors' Insurance System.

172.2. Town Clerk to Establish Deduction System.

The Clerk is hereby authorized to establish a system pay roll deduction to be matched by payments by the Town of Limon to be made into the Contribution Fund of the Social Security Act through the Department of Employment Security, and to make charges of this tax to the fund or funds, from which wage or salary payments are issued to employees of the Town of Limon. Such payments are to be made in accordance with the provisions of Section 1400 of the Federal Insurance Contribution Act on all services which constitute employment within the meaning of that Act. Payments made to the Department of Employment Security, State of Colorado, shall be due and payable on or before the 18th day of the month immediately following the completed calendar quarter, and such payments which are delinquent shall bear interest at the rate of 1/2 of 1% per month until such time as payments are made.

172.3. Appropriation – Agreement with the Department of Employee Security.

Appropriation is hereby made from the proper fund, or funds, of the Town of Limon in the necessary amount to pay into the contribution fund as provided in Section 3(c)(1) of the enabling Act and in accordance with the Plan, or Plans and Agreement. Authority is hereby given to the Mayor and the Clerk of the Town of Limon to enter into an agreement with the Department of Employment Security, State of Colorado, which agreement shall be in accordance with House Bill No. 291 and with paragraph 218 of the Social Security Act. Such plan and agreement shall provide that the participation of this Town of Limon shall be in effect as of April 3, 1958.

173 - Sick Leave; Vacation

173.1. Pay Allowance While Absent from Duty.

No employee in any department of the Town of Limon shall be allowed pay for any working day on which he was absent from his duties except as hereinafter provided, to wit:

173.1.1. Every regular employee shall be entitled to two (2) weeks vacation, annually, with pay, provided he has been in the continuous employment of the Town for not less than one (1) year, but such vacation time shall not be cumulative except by special arrangement with the head of the department employing the individual, which arrangement shall be subject to the approval of the Town Board.

173.1.2. In case of confining illness, any employee shall be entitled to one (1) day's absence from work, with pay for each month of continuous service as an employee of the Town up to thirty (30) months of such service and thereafter sick leave shall accumulate at the rate of one half (1/2) day per month of service but in no event shall any employee be entitled to more than sixty (60) days of sick leave with pay.

173.1.3. Every employee shall file with the head of his department a doctor's certificate stating that the absence of the employee was due to house confining illness, before he shall be entitled to pay for any day or days of absence, and such absence shall be charged to and deducted from the accumulated sick leave time of the employee.

180 - Annexation and Subdivisions

181 - Annexation

HISTORY: 1958 Municipal Code; Repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes. See Land Development Code for additional information.

182 - Subdivisions of Land Within the Town of Limon

HISTORY: 1958 Municipal Code-Amendments noted where applicable; Repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes. See Land Development Code for additional information.

182.1. General Requirements.

The following shall be considered minimum requirements, and shall apply, except when specifically permitted to deviate therefrom by the Town Board.

182.1.1. Property Lines.

Monuments of iron pipe, stone, or concrete shall be set at tangent points of street intersections, at alley intersections and at such other points as may be required by the Town Board to make the retracing of the lines as shown on the final plat reasonably convenient.

182.1.2. Streets and Alleys.

182.1.2.1. Dead-end streets shall have a turn-around at the end with a minimum radius of 45 feet.

182.1.2.2. No irrigation ditches shall be permitted on public roads except where acquired by vested rights or where crossing public roads.

183 - Costs

HISTORY: Added May 5, 1983 by Ordinance No. 293; Repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes. See Land Development Code for additional information.

184 - Flood Conditions

HISTORY: Added October 4, 1984 by Ordinance No. 306. Amended by Ordinance No. 330, dated November 3, 1988 and Ordinance No. 346, dated November 15, 1990. Repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes. Amended on June 6, 1996 by Ordinance No. 398.

184.1. Background.

184.1.1. Statutory Authorization.

The Legislature of the State of Colorado has by statute delegated the responsibility of local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Trustees of the Town of Limon, Colorado, does ordain as follows:

184.1.2. Findings of Fact.

184.1.2.1. The flood hazard areas of the Town of Limon are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services,

extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

184.1.2.2. These flood losses are caused by cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas, Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

184.1.3. Statement of Purpose.

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

184.1.3.1. To protect human life and health;

184.1.3.2. To minimize expenditure of public money for costly flood control projects;

184.1.3.3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

184.1.3.4. To minimize prolonged business interruptions;

184.1.3.5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

184.1.3.6. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

184.1.3.7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,

184.1.3.8. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

184.1.4. Methods of Reducing Flood Losses.

In order to accomplish its purposes, this code includes methods and provisions for:

184.1.4.1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

184.1.4.2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

184.1.4.3. Controlling the alteration and natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

184.1.4.4. Controlling filling, grading, dredging, and other development which may increase flood damage; and

184.1.4.5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

184.2. Definitions.

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

184.2.1. Appeal: a request for a review of the Town Manager's interpretation of any provisions of this code or a request for a variance.

184.2.2. Area of Special Flood Hazard: the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

184.2.3. Base Flood: the flood having a one percent chance of being equaled or exceeded in any given year.

184.2.4. Development: any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

184.2.5. Existing Manufatured Home Park or Manufactured Home Subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of floodplain management regulations adopted by the Town of Limon.

184.2.6. Expansion to an Existing Mobile Home Park or Mobile Home Subdivision: the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

184.2.7. Flood or Flooding: a general and temporary condition of partial or complete inundation of normally dry land areas from:

184.2.7.1. The overflow of inland or tidal waters and/or

184.2.7.2. The unusual and rapid accumulation or runoff of surface waters from any source.

184.2.8. Flood Insurance Rate Map (Firm): the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

184.2.9. Flood Insurance Study: the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

184.2.10. Historic Structure: any structure that is:

184.2.10.1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

184.2.10.2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

184.2.10.3. individually listed on a state inventory of historic places.

184.2.11. Lowest Floor: the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this code.

184.2.12. Manufactured Home: a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". The term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

184.2.13. Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into tow or more manufactured home lots for rent or sale.

184.2.14. New Construction: for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of November 5, 1977, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of November 5, 1977 and includes any subsequent improvements to such structures.

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

184.2.16. Recreational Vehicle: a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

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

184.2.18. Structure: a walled and roofed building or manufactured home that is principally above ground.

184.2.19. Substantial Damage: damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

184.2.20. Substantial Improvement: any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

184.2.20.1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

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

184.2.21. Variance: a grant of relief from the requirements of this code which permits construction in a manner that would otherwise be prohibited by this code.

184.3. General Provisions:

184.3.1. Lands to Which this Code Applies.

This code shall apply to all areas of special flood hazards within the jurisdiction of the Town of Limon, Colorado.

184.3.2. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Limon, Colorado" dated May 1, 1984, with an accompanying Flood Insurance Rate Map Firm is hereby adopted by reference and declared to be apart of this code. The Flood Insurance Study and Firm are on file at the Limon Town Hall, 100 Civic Center Drive, Limon, Colorado.

184.3.3. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this code and other applicable regulations.

184.3.4. Abrogation and Greater Restrictions.

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

184.3.5. Interpretation.

In the interpretation and application of this code, all provisions shall be:

184.3.5.1. Considered as minimum requirements;

184.3.5.2. Liberally construed in favor of the governing body; and

184.3.5.3. Deemed neither to limit nor repeal any other powers granted under state statutes.

184.3.6. Warning and Disclaimer of Liability.

The degree of flood protection required by this code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Limon, Colorado, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this code or any administrative decision lawfully made thereunder.

184.4. Administration.

184.4.1. Establishment of Development Permit.

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section **184.3.2.** Application for a Development Permit shall be made on forms furnished by the Town Manager and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

184.4.1.1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

184.4.1.2. Elevation in relation to mean sea level to which any structure has been flood proofed;

184.4.1.3. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section **184.5.2.2.**; and

184.4.1.4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

184.4.2. Designation of the Town Superintendent.

The Town Manager is hereby appointed to administer and implement this code by granting or denying development permit applications in accordance with its provisions.

184.4.3. Duties and Responsibilities of the Town Manager.

Duties of the Town Manager shall include, but not be limited to:

184.4.3.1. Permit Review.

184.4.3.1.1. Review all development permits to determine that the permit requirements of this code have been satisfied.

184.4.3.1.2. Review all development permits to determine that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required.

184.4.3.1.3. Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this code, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.

184.4.3.2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section **184.3.2.**, the Town Administration shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A of the FIRM are administered in accordance with Section **184.5.2.**

184.4.3.3. Information to be Obtained and Maintained.

184.4.3.3.1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

184.4.3.3.2. For all new or substantially improved flood proofed structures:

184.4.3.3.2.1. verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood proofed.

184.4.3.3.2.2. maintain the flood-proofing certifications required in Section **184.4.1.3.**

184.4.3.3.3. Maintain for public inspection all records pertaining to the provisions of this code.

184.4.3.4. ALTERATION OF WATERCOURSES.

184.4.3.4.1. Notify adjacent communities and the State Engineer of the State of Colorado prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

184.4.3.4.2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

184.4.3.5. Interpretation of Firm Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards

184.4.3.5.1. Example: where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section **184.4.4.**

184.4.4. Variance Procedure.

184.4.4.1. Appeal Board.

184.4.4.1.1. The Board of Adjustment as established by the Town of Limon under Ordinance No. 188 shall hear and decide appeals and requests for variances from the requirements of this code.

184.4.4.1.2. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Town Administration in the enforcement or administration of this code.

184.4.4.1.3. Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decisions to the District Court, as provided in Rule 106 of the Colorado Rules of Civil Procedure and any other statute of the State of Colorado which provides for review of the acts of any inferior tribunal.

184.4.4.1.4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this code, and:

184.4.4.1.4.1. the danger that materials may be swept onto other lands to the injury of others;

184.4.4.1.4.2. the danger to life and property due to flooding or erosion damage;

184.4.4.1.4.3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

184.4.4.1.4.4. the importance of the services provided by the proposed facility to the community;

184.4.4.1.4.5. the necessity to the facility of a waterfront location, where applicable;

184.4.4.1.4.6. the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

184.4.4.1.4.7. the compatibility of the proposed use with the existing and anticipated development;

184.4.4.1.4.8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

184.4.4.1.4.9. the safety of access to the property in times of flood for ordinary and emergency vehicles;

184.4.4.1.4.10. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

184.4.4.1.4.11. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets, and bridges.

184.4.4.1.5. Upon consideration of the factors of Section **184.4.4.1.4.** and the purposes of this code, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of the code.

184.4.4.1.6. The Town Administration shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

184.4.4.2. Conditions for Variances.

184.4.4.2.1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, provided in Section **184.4.4.1.4.** have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.

184.4.4.2.2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

184.4.4.2.3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

184.4.4.2.4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

184.4.4.2.5. Variances shall only be issued upon:

184.4.4.2.5.1. a showing of good and sufficient cause;

184.4.4.2.5.2. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

184.4.4.2.5.3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section **184.4.4.1.4.**, or conflict with existing local laws or ordinances.

184.4.4.2.6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

184.5. Provisions for Flood Hazard Reduction.

184.5.1. General Standards.

In all areas of special flood hazards the following standards are required:

184.5.1.1. Anchoring.

184.5.1.1.1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.

184.5.1.1.2. All mobile homes shall be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:

184.5.1.1.2.1. over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at the intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

184.5.1.1.2.2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;

184.5.1.1.2.3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,

184.5.1.1.2.4. Any additions to the manufactured home be similarly anchored.

184.5.1.2. Construction materials and Methods.

184.5.1.2.1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

184.5.1.2.2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

184.5.1.2.3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulation within the components during conditions of flooding.

184.5.1.3. Utilities.

184.5.1.3.1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

184.5.1.3.2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

184.5.1.3.3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

184.5.1.4. Subdivision Proposals.

184.5.1.4.1. All subdivision proposals shall be consistent with the need to minimize flood damage;

184.5.1.4.2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

184.5.1.4.3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

184.5.1.4.4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

184.5.1.5. Encroachments. The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

184.5.2. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section **184.3.2.** or Section **184.4.3.2.**, the following provisions are required:

184.5.2.1. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

184.5.2.2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

184.5.2.2.1. Be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

184.5.2.2.2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

184.5.2.2.3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section **184.4.3.2.**

184.5.2.3. Manufactured Homes.

184.5.2.3.1. Manufactured homes shall be anchored in accordance with Section **184.5.1.1.2.**

184.5.2.3.2. Manufactured homes that are placed or substantially improved within Zones A1-30, AO and AE, on sites that are (i) outside of a manufactured home park or subdivision, (ii) inside a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation.

184.5.2.3.3. Manufactured homes that are placed or substantially improved on sites in existing manufactured home parks or subdivisions within Zones A1-30, AH, AO and AE that are not subject to the provisions of the previous paragraph shall be elevated so that either (a) the lowest floor of the manufactured home is at or above the base flood elevation, or (b) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less that thirty-six (36) inches in height above grade.

184.5.2.3.2.1. stands or lots are elevated or compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;

184.5.2.3.2.2. adequate surface drainage and access for hauler are provided; and,

184.5.2.3.2.3. in the instance of elevations on pilings, that:

184.5.2.3.2.3.1. Lots are large enough to permit steps,

184.5.2.3.2.3.2. Piling foundations are placed in stable soil no more than ten feet apart, and

184.5.2.3.2.3.3. Reinforcement is provided for pilings more than six feet above the ground level.

184.5.2.3.3. No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.

200 - POLICE AND FIRE DEPARTMENTS

201 - General

HISTORY: 1958 Municipal Code.

201.1. AUTHORITY FOR ESTABLISHMENT.

The authority for the establishment of the office of Chief of Police and for the Police Department by the Town Board of Limon is vested by statutes of the State of Colorado. The authority for the establishment of the office of Fire Chief and of the Fire Department by the Town Board of Limon is vested by statutes of the State of Colorado.

201.2. SCOPE OF RESPONSIBILITIES OF CHIEF OF POLICE AND FIRE CHIEF.

The Chief of Police is charged with the management of the Police Department and shall have such powers as are given to him by statute as Chief of Police of an incorporated town. He shall make recommendations concerning matters within the sphere of his responsibility to the Town Board. He shall perform such duties as are required of him by statute, by this code, or as shall be assigned to him by the Town Board, providing such assignment is not inconsistent with his office. The Fire Chief is similarly charged with the management of the Fire Department.

202 - Uniforms and Badges of Policemen

210 - Police Department

HISTORY: Added by Ordinance No. 219 on February 21, 1972. Deleted in its entirety by Ordinance No. 380 on October 6, 1994

211 - General Police Duties and Powers

HISTORY: 1958 Municipal Code. Amendments noted where applicable.

211.1. GENERAL DUTIES; POWERS OF ARREST.

211.1.1. The several members of the Police Department when on duty shall devote their time and attention to the discharge of the duties of their stations according to statute, this Code, ordinances of the Town and the rules and regulations of the Department to preserve order, peace, and quiet, and enforce the laws, codes and ordinances through the Town.

211.1.2. They shall have power to arrest all persons found in the act of violating any law, code or ordinance or aiding or abetting in any such violation and shall arrest any person found under circumstances which would warrant a reasonable man in believing that such person had committed or is about to commit a crime.

211.2. SERVICE OF PROCESS.

They shall have the power and authority and it shall be their duty to serve and execute warrants and other process for the summoning, apprehension and commitment of any person charged with a violation of any ordinance, code, or commission of any crime, or misdemeanor, or offense against the laws of the Town.

211.3. AID TO FIREMEN.

It shall be the duty of the members of the Police Department to aid the Fire Department by giving alarms in case of fire, and in clearing the streets or grounds in the immediate vicinity of the fire, so that the members of the Fire Department shall not be hindered or obstructed in the performance of their duties.

211.4. PROPERTY SEIZED; REPORT.

211.4.1. It shall be the duty of every member of the Police Department to report to his superior officer, all property seized or found by him immediately after the same shall have come into his possession, and such superior officer shall report the same to the Chief of Police.

211.4.2. Such property, with the date of delivery and description thereof, and the name of the policeman depositing the same, shall be entered in a book kept for that purpose, by the custodian having the custody of such property, who shall be held responsible therefore.

211.4.3. Sale of Property Seized.

Public sale of unclaimed chattels in the custody of the Police Department is hereby authorized and shall be conducted in the following manner.

211.4.4. That storage, at one dollar ($1.00) per day, shall be charged against all vehicles and chattels in police custody, and shall constitute a lien against such property which may be foreclosed as herein provided.

211.4.5. That the Chief of Police be and he is hereby authorized to sell at public auction any and all automobiles, vehicles and other goods and chattels that accumulate from time to time, as unclaimed property, in the custody of his department; provided, however, that no such unclaimed property shall be offered for sale unless the same shall have been in the custody of the police department for not less than three months.

211.4.6. That notice as such sales shall be given by publication in the official newspaper of the Town in three (3) consecutive weekly issues thereof and the first publication of such notice to be not less than 30 days before such sale. Such notice shall describe the items to be offered for sale and state the time and place thereof. The terms of all such sales shall be for cash and the proceeds thereof shall be credited to the general fund of the Town.

211.4.7. That at such sales, the vehicles, goods and chattels shall be auctioned separately to the highest and best bidder who shall forthwith pay the amount of his bid to the Town Clerk of the Town of Limon. On receipt as such payment the Town Clerk shall and is hereby authorized and directed to issue to the successful bidder, in the name and on behalf of the Town of Limon, a written bill of sale without warranty to the purchaser, his heirs or assigns, in any form and approved by the Motor Vehicle Department of Colorado.

211.4.8. All vehicles, good and chattels purchased at any sale shall be removed from the custody and premises of the Town by the purchaser, within five (5) days thereafter. In event any purchaser fails to remove his property within the time aforesaid, a storage charge of one dollar ($1.00) per day shall be made and collected by the Police Department and if not redeemed, the article may be included in any subsequent auction held by authority of this Code.

211.5. ABATE NUISANCES, ETC.

It shall be the duty of each member of the Police Department to take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, and other public ways and places and to remove the same or cause immediate notice thereof to be given to the proper officer whose duty it may be to take measures in relation thereto according to the Code and the ordinances of the Town.

211.6. ACCIDENT REPORTS.

Whenever any person is physically injured or any property is injured, damaged, or destroyed by an accident occurring in or on any of the sidewalks, streets, avenues, alleys, parks or other public ways and places of the Town of Limon, it shall be the duty of the police officer within whose district or upon whose beat such accident shall have happened, and also of the detective who may be in that vicinity or be detailed for service in that neighborhood to investigate such accident and ascertain the cause of the same, and obtain the name and residence of the person injured, or owning the property injured or damaged, and all the circumstances of the accident, with the names and places of residence of all persons having knowledge of the occurrence, and of the cause resulting in the accident or damage, and make forthwith a report of the same to the Chief of Police.

211.7. PHYSICIANS TO REPORT INJURIES TO CHIEF OF POLICE.

It shall be the duty of every physician or surgeon practicing within the Town of Limon, who attends or has under his charge or care any patient or other person suffering from any wound or injury inflicted or caused by his own act, or by the act of another, to report forthwith to the Chief of Police of said Town of Limon the name of such patient or other person and all facts appertaining to such case within the knowledge of such physician or surgeon.

211.8. SUSPENSION, REMOVAL.

Any failure on the part of any police officer of the Town to comply with the terms and provisions of section **211** shall be sufficient cause for suspension or removal.

211.9. PENALTY FOR MISCONDUCT BY POLICE OFFICERS.

Any member of the police force who shall neglect or refuse to perform any duty required by him of this Code or the ordinances of the Town, or the rules and regulations of the Police Department, or who shall, in the discharge of his official duties, be guilty of any fraud, extortion, oppression, favoritism or wilful wrong or injustice shall be guilty of a violation hereof and shall, in

addition to any other penalty or punishment imposed by law be subject to penalty therefor.

211.10. PENALTIES FOR REFUSAL TO COMPLY WITH AN ORDER.

Any person who shall willfully fail or refuse to comply with the order of duly authorized law enforcement officers or personnel charged with preserving the public peace, whether under color of their lawful commission or order of the Court, or in the conduct of their regular duties, shall, upon conviction, be subject to a fine of not more than Five Hundred Dollars ($500.00).

(Added October 2, 1969, Ordinance No. 209; amended January 2, 1997, Ordinance No. 411)

211.11. The Police Department shall be in charge of the town jail and of all prisoners confined therein, together with any prisoner sentenced to labor on the streets or public works of the town.

(Added by Ordinance No. 380 on October 6, 1994 from May 14, 1975, Ordinance No. 234)

211.12. All records, if any, of the police department shall be kept available for inspection by the Town Board and proper reports and accounts shall be rendered to the Town Board upon request of the Mayor.

(Added by Ordinance No. 380 on October 6, 1994 from May 14, 1975, Ordinance No. 234)

211.13. VACANCIES.

211.13.1. Vacancies in the office of Police Chief shall be filled by the Board of Trustees.

(Added by Ordinance No. 380 on October 6, 1994 from May 14, 1975, Ordinance No. 234; Amended on June 6, 1996 by Ordinance No. 398)

211.13.2. Vacancies in the position of Town Policeman shall be hired by the Chief of Police.

(Added and amended by Ordinance No. 380 on October 6, 1994 from May 14, 1975, Ordinance No. 234)

220 - Volunteer Firefighter Pension

HISTORY: Added by Ordinance No. 218 on January 6, 1972; amended by Ordinance No. 410 on January 2, 1997

220.1. FUND ESTABLISHED.

The Firefighter's Pension Fund of the Town is hereby established.

220.2. OPERATION OF FUND.

The Firefighter's Pension Fund of the Town shall be operated in accordance with the laws and statutes of the State of Colorado as provided in the Colorado Revised Statutes, Title 31, Article 30, Part 11 - Volunteer Firefighter Pension Act, as amended.

221 - Fire Department Organization and Duties

HISTORY: 1958 Municipal Code.

221.1. MEMBERSHIP OF FIRE DEPARTMENT.

The Fire Department shall be composed of a Chief of the Fire Department and such other subordinate officers, volunteer firemen, and employees to be appointed by the Town Board as may be necessary to protect the Town against fire.

221.2. DUTIES OF MEMBERS.

All members of the Fire Department shall perform such duties as may be required of them by the Town Board, the Chief, his assistants, or the captains of their respective companies, and shall wear such uniforms, caps, badges, and other insignia as the Town Board may direct.

221.3. DUTIES OF THE FIRE CHIEF.

221.3.1. The Chief of the Fire Department shall be responsible for the discipline, good order, and proper conduct of the whole Fire Department, the enforcement of all laws, ordinances, and regulations pertaining thereto and for the care and condition of the houses, engines, hose carriages, and all other property of the Department.

221.3.2. He shall have the superintendence, control, and command of all the officers and men belonging to the department, of all the engine houses and other houses used for the purposes thereof, and of all the engines and other fire apparatus belonging to the Town of Limon.

221.3.3. He shall have control of all persons present at fires, and to that end, shall ex-officio, have and exercise all the powers of the Chief of Police thereat.

221.3.4. He shall wear a proper badge of office and shall, when a fire breaks out, take immediate and proper measures for its extinguishment.

221.3.5. He shall have power, if need be, to summon any and all persons present to aid in extinguishing any fire, in removing personal property from any building on fire or in danger thereof, and in guarding the same.

221.3.6. He shall have power to order the cutting down and removing of any building, erection, fence or other thing if he shall deem it necessary for the purpose of checking the progress of any fire.

221.3.7. In case of the absence of said Chief from any fire, the assistant chiefs, or in their absence the captain of the company first at the fire, shall, for the time, have the powers and perform the duties of such Chief.

221.3.8. He shall perform such other duties as may be prescribed by the Town Board.

221.4. INSPECTION DUTIES.

221.4.1. It shall be the duty of the Fire Chief or any member or members of the Fire Department, directed by said Chief, to perform the following duties:

221.4.2. To inspect all enclosures, see that proper receptacles for ashes are provided, cause all rubbish or other inflammable material to be removed, and make such suggestions and issue such orders to the owners or occupants of buildings as will, in the opinion of such inspecting officer, render the same safe from fire.

221.4.3. To inspect the surroundings of boilers and other heating apparatus in any building to ascertain whether all woodwork is properly protected and that no rubbish or combustible material is allowed to accumulate.

221.4.4. To inspect fire escapes and stairways and cause the removal of all obstructions therefrom, and to inspect all places where explosives or inflammable compounds are sold or stored.

221.4.5. To inspect the construction, placing, repair, and control of all fire escapes, standpipes, pressure tanks, fire doors, fire shutters, fire lines, fire hose, sprinkling systems, exit lights, exit signs, and the installing and testing of fire equipment in all buildings and places requiring the same and the providing of means for escape or protection against loss of life and property from fire in same.

221.4.6. To perform such other duties as may be prescribed by code, ordinance or by rules of the Town Board.

221.5. PROCEDURE FOR REMOVAL OF FIRE HAZARDS; NOTICE, HEARING AND APPEAL.

221.5.1. Whenever any officer or member of the Fire Department of the Town of Limon shall find in any building, or upon any premises or place, public, or private, combustible or explosive matter or substances or any dangerous accumulation of rubbish, or needless and unnecessary accumulation of waste paper, boxes, shavings, or any other highly inflammable material, or materials, especially calculated or liable to engender or promote a fire, and which is so situated with reference to the buildings, premises, or place, as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors, or windows tending to interfere with the operations of the Fire Department, or the egress of the occupants in case of fire; or shall find evidence of the violations of provisions of this Code, or of any ordinances of the Town of Limon pertaining to the fire hazard or prevention of fires, he shall order the same to be removed, remedied, or corrected.

221.5.2. Such order shall forthwith be complied with and obeyed by the owner or occupant of such building, premises or public place; provided, however, that such owner or occupant may, within twenty-four (24) hours, appeal from the order of the Department to the Town Board.

221.5.3. It shall be the duty of the Town Board within ten (10) days to review said order and render its decision forthwith thereon, and unless the order shall by the Town Board be revoked or modified, it shall be and remain in full force and effect, and be complied with and obeyed by such owner or occupant.

221.5.4. Any owner or occupant failing to comply with such order within five (5) days after said appeal shall have been determined by the Town Board or, if no appeal is taken from the said order of the said Chief, officer or member of the Fire Department, then within five (5) days after service of said order, shall be guilty of an offense hereunder.

221.5.5. Such order so made by the Chief, officer, or member of the Fire Department shall be in writing, and service shall be made upon the occupant of the premises by delivering a true copy thereof to such occupant personally, or by delivering the same to or leaving it with any person over the age of fourteen (14) years, in charge of the premises.

221.5.6. In case no such person is found upon the premises, a copy of such notice shall be affixed, posted, or tacked in a conspicuous place on said building or said premises or public places; and service of a copy of said order (if there be no person in charge of the premises to whom said order could be delivered) shall be made upon the owner thereof by delivering to him or his agent a true copy of said order.

222 - Fire Department Emergency Power

222.1. PRESCRIBING CORDON AROUND FIRE.

The Chief of the Fire Department, or any assistant in command, may prescribe limits in the vicinity of any fire within which no persons excepting those who reside therein, firemen and policemen, and those admitted by order of any officer of the Fire Department shall be permitted to come.

222.2. POWER TO PROTECT PROPERTY.

The Chief or any assistant in command shall have power to cause the removal of any property, whenever it shall become necessary for the preservation of such property from fire, or to prevent the spreading of fire, or to protect adjoining property.

222.3. EMERGENCY POWER TO DESTROY BUILDINGS.

When a fire is in progress, the Chief of the Fire Department, or, in his absence, the assistant chiefs, or either of them, may (with the advice of the Town Board) or the Mayor, or of his own notion, if none of such officers are present, order any building or buildings that are in close proximity to such fire to be torn down, blown up, or otherwise disposed of, for the purpose of checking the conflagration, but neither the Chief nor any other officer or member of the Fire Department shall unnecessarily or recklessly destroy or injure any building or other property.

222.4. POWER TO ACT AS POLICE.

In case of riot or any other sudden emergency requiring immediate assistance of the police force, the Town Board or the Mayor may issue its or his order to the Chief, or to any of the assistant chiefs, to summon, for the purpose of preserving the peace, the entire body of firemen or any particular company. The firemen, when acting in this capacity, shall have all the authority of regular policemen.

230 - Emergency Response Authority for Hazardous Materials Incidents

HISTORY: Added December 2, 1982 by Ordinance No. 290. Amended August 3, 1995 by Ordinance No. 391

230.1. PURPOSE.

The purpose of this code is to designate an emergency response authority for hazardous material incidents occurring within the corporate limits of the Town and within all areas outside the corporate limits of the Town the use of which the Town has jurisdiction and authority to regulate, as required by C.R.S. 1973 Section 29-22-102(3), as amended, and to establish the duties and authority of the emergency response authority. This code shall also establish the responsibilities of any person who owns or has control of a hazardous material which is involved in a hazardous material incident and provide for reimbursement of costs to the Town incidental to hazardous material incidents.

230.2. DEFINITIONS.

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

230.2.1. HAZARDOUS MATERIAL:

Any substance or material designated as a hazardous material by the United States Department of Transportation according to 49 C.F.R. Part 172, as amended; or, any waste material which constitutes a hazardous waste according to 40 C.F.R. Part 261, as

amended; or any other substance or material including but not limited to petroleum products which, in the judgment of the emergency response authority, poses an imminent danger to the public health and safety when involved in a hazardous material incident.

230.2.2. HAZARDOUS MATERIAL INCIDENT:

Any emergency circumstance involving the sudden discharge or imminent discharge of hazardous material which, in the judgment of the emergency response authority, threatens immediate and irreparable harm to the environment or the health and safety of any person other than persons exposed to the risks associated with hazardous materials in the normal course of their employment. "Hazardous material incident" does not include any discharge of a hazardous material authorized pursuant to any Federal, State or local law or regulation.

230.2.3. PRIVATE PROPERTY:

Any property under the control, management or operation of any person other than a governmental entity.

230.2.4. EMERGENCY RESPONSE AUTHORITY:

The Chief of the Police of the Town or his designee(s).

230.2.5. EMERGENCY RESPONSE TO A HAZARDOUS MATERIAL INCIDENT:

Taking the initial emergency action necessary to minimize the effects of a hazardous material incident and exercising continuing supervisory authority over all further efforts to eliminate the threat of immediate and irreparable harm to the environment or the public health and safety.

230.2.6. RESIDUE OF THE HAZARDOUS MATERIAL INCIDENT:

The hazardous material itself and the soil, pavement, stone, water, debris or any other matter which is contaminated by such hazardous material.

230.3. JURISDICTION OF EMERGENCY RESPONSE AUTHORITY.

The emergency response authority shall have jurisdiction for hazardous material incidents occurring within the corporate limits of the Town, and within all areas outside the corporate limits of the Town, over which the Town has jurisdiction and authority to regulate, and on any private property for which the owner or operator thereof has an arrangement with the Town for fire protection service.

230.4. DUTIES AND AUTHORITY OF THE EMERGENCY RESPONSE AUTHORITY.

The emergency response authority shall have the following duties and authority:

230.4.1. Provide twenty-four (24) hour response capability to reported or suspected hazardous waste incidents.

230.4.2. Take initial emergency action necessary to minimize the effects of a hazardous material incident and exercise continuing supervisory authority over all further efforts to eliminate the threat of immediate and irreparable harm to the environment or the public health and safety.

230.4.3. Request assistance of personnel and equipment at the scene and immediate vicinity of a hazardous material incident from any Town department and generally direct, supervise and coordinate the activities of such persons and the use of such equipment.

230.4.4. Request assistance from the nearest available fire department or other public agency possessing such equipment, personnel or expertise which, in the judgment of the emergency response authority, may be necessary to handle a particular hazardous material incident when such equipment, personnel or expertise is not reasonably available on a timely basis from the various Town departments.

230.4.5. Contract, as an emergency measure without the necessity of bids, for services and material from any person for the purpose of minimizing the effects of a hazardous material incident and for eliminating the threat of immediate and irreparable harm to the environment or to public health and safety if such services or material is not reasonably available on a timely basis from the various Town departments or other fire departments or public agencies.

230.4.6. Notify the Disaster Emergency Service Agency, the United States Environmental Protection Agency, the Colorado State Department of Health, and any other Federal or State agency of hazardous material incidents as required by any Federal or State law or regulation. The emergency response authority may request the Disaster Emergency Service Agency to assist in making the required notifications and for any other assistance which is deemed appropriate.

230.5. RIGHT OF ENTRY.

Whenever the emergency response authority has reasonable cause to believe that a discharge of hazardous material has occurred or that a discharge of a hazardous material is imminent, which discharge or imminent discharge threatens immediate and irreparable harm to the environment or the health and safety of any person other than persons exposed to the risks associated with hazardous materials in the normal course of their employment, and which discharge or imminent discharge is not authorized pursuant to any Federal, State or local law or regulation, the emergency response authority may enter any private property in the interest of public safety at all reasonable times to inspect the same or to perform any duty imposed by this code. If such private property is occupied, the emergency response authority shall first identify himself by name and position and demand entry; and, if such private property is unoccupied, the emergency response authority shall first make a reasonable effort to locate the owner or other person having charge or control of such private property and demand entry. If entry is refused, the emergency response authority may apply for a search warrant or search warrant for inspection pursuant to the Colorado Municipal Court Rules of Procedure, or as otherwise provided by law. This section shall not be construed to require the issuance of a warrant in any case where warrants are not required by law.

230.6. RESPONSIBILITIES OF TOWN DEPARTMENTS.

Upon request of the emergency response authority, all Town departments shall provide any personnel, equipment and expertise as may be reasonably available, to assist at the scene or immediate vicinity of a hazardous material incident taking into account the serious and immediate danger posed by hazardous material incidents. All personnel and equipment from each department at a hazardous material incident scene or vicinity shall be under the direct supervision of the senior person from that department or as otherwise provided by departmental policy, except that the emergency response authority shall provide general supervisory control and authority at a hazardous material incident scene or vicinity and all Town departments and personnel shall cooperate with the emergency response authority accordingly.

230.7. HAZARDOUS MATERIAL INCIDENTS ON PRIVATE PROPERTY.

If a hazardous material incident occurs on private property within the corporate limits of the Town or on private property for which the owner or operator thereof as an agreement with the Town for fire protection service, the owner or operator thereof may undertake the emergency response to such hazardous material incident and shall immediately notify and coordinate such response with the emergency response authority. If the owner or operator does not undertake such emergency response, or if in the judgment of the emergency response authority there exists an imminent danger to the public health and safety beyond such private property and the emergency response by the owner or operator thereof is inadequate or insufficient to alleviate such imminent danger, the emergency response authority shall be responsible for the emergency response to such hazardous material incident as provided in this code.

230.8. RESPONSIBILITY FOR RESIDUE CLEANUP AND DISPOSAL.

The owner of a hazardous material and the operator of any vehicle or other conveyance by which a hazardous material is moved or transported, in the case where a hazardous material incident occurs during movement or transport, shall be jointly and severally responsible for properly cleaning up, transporting and disposing of the residue of the hazardous material incident. Proper cleanup, transport and disposal shall mean actions in compliance with all Federal and State laws and regulations pertaining to the particular hazardous material or residue thereof, as the case may be. All such owners and operators shall cooperate with the emergency response authority and shall provide all reasonably available means, personnel and equipment to effect the proper cleanup, transport and disposal of the residue of the hazardous material incident.

230.9. REIMBURSEMENT OF COSTS AND EXPENSES.

The Town shall develop criteria to govern those costs and expenses incurred by the Town as a result of assistance at hazardous material incidents which shall be reimbursable. The Town shall submit an itemized account of all reimbursable costs and expenses incurred as a result of the Town's assistance at a hazardous material incident to the owner of the hazardous material involved in the hazardous material incident, or other person proximately causing the hazardous material incident, for the total costs and expenses incurred by the Town as a result thereof, which bill shall be due and payable within thirty (30) days after mailing. Such owner or other person proximately causing a hazardous material incident shall be jointly and severally liable for reimbursement of all Town costs and expenses incurred as a result of assistance of emergency response to a hazardous material incident. Upon the failure or refusal of any person to reimburse the Town as provided herein,

the Town Manager shall refer the matter to the Town Attorney for collection or other disposition as deemed appropriate.

(Amended on June 6, 1996 by Ordinance No. 398)

230.10. VIOLATIONS.

230.10.1. The driver of any vehicle involved in an accident resulting in a discharge of any hazardous material upon any public or private property shall immediately stop such vehicle at the scene of the accident, or as close thereto as possible, in which latter case he shall immediately return to the scene of the accident, and in any event he shall remain at the scene of the accident until he has fulfilled the requirements of Section **230.10.2.**

230.10.2. The driver of any vehicle involved in an accident resulting in a discharge of any hazardous material shall immediately notify the emergency response authority or a police officer of the discharge and shall give his name, address and the registration number of the vehicle he is driving to the emergency response authority or police officer. The driver shall also give the emergency response authority the name, address and telephone number of the owner of the hazardous material, if known to him.

230.10.3. It shall be unlawful for the driver of any vehicle involved in the discharge of any hazardous material to leave the scene of a hazardous material incident until such material is cleaned up pursuant to the requirements of Section **230.8.**, unless authorized to leave prior thereto by the emergency response authority.

230.10.4. It shall be unlawful for any person to intentionally, knowingly or recklessly discharge any hazardous material into or upon any public or private property, unless such discharge is authorized pursuant to Federal, State or local law or regulation.

230.10.5. It shall be unlawful for any person to intentionally, knowingly or recklessly discharge any hazardous material into the wastewater treatment works of the Town, including any collection line thereto, unless authorized by the Sewer Department of the Town.

230.11. PENALTIES FOR VIOLATIONS.

Any person who violates the provisions of this code as aforesaid shall upon conviction, be subject to a fine of not more than Five Hundred Dollars ($500.00). Each day that such violation shall continue shall constitute a separate and distinct offense.

(Added January 2, 1997 by Ordinance No. 411)

250 - EMERGENCY MEDICAL SERVICES

HISTORY: Added October 23, 1998 by Ordinance No. 424

250.1. AUTHORITY FOR ESTABLISHMENT.

The authority for the establishment of the Limon Ambulance Service by the Town of Limon is established by statutes of the State of Colorado.

250.2. BOARD OF TRUSTEES

A seven member Board of Trustees shall be appointed by the Mayor with the consent of the Board of Trustees of the Town of Limon. The first appointments of such Trustees shall be for terms of one year for three members and two years for four members, and thereafter Trustees shall be appointed annually to serve two years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which the Board are regularly chosen. A Trustee of the Limon Ambulance Service may be removed only by a vote of the Board of Trustees of the Town of Limon.

250.3. ORGANIZATION AND POWERS.

250.3.1. The Board of Trustees of the Limon Ambulance Service, immediately after their appointment, and annually thereafter shall meet and organize by the election of a president, vice-president, secretary and treasurer and other such officers as they deem necessary.

250.3.2. The Board of Trustees of the Limon Ambulance Service shall have the power to:

250.3.2.1. Adopt such by-laws, rules and regulations for their own governance and the government of Limon Ambulance Service as they deem expedient;

250.3.2.2. Submit annually, for approval by the Board of Trustees of the Town of Limon, in accordance with state budgetary laws, a budget and capital improvements plan identifying sums necessary to maintain and operate the Limon Ambulance Service during the budgetary year;

250.3.2.3. Control the day to day disbursement of the necessary expenses incurred by the Limon Ambulance Service;

250.3.2.4. Accept such gifts of money for emergency medical service purposes as they deem expedient.

250.3.3. The Board of Trustees of the Limon Ambulance Service shall;

250.3.3.1. Provide or cause to be provided to the Board of Trustees of the Town of Limon, on a monthly basis, financial statements for the Limon Ambulance Service;

250.3.3.2. Shall submit to an annual audit by the auditor of the Town of Limon.

300 - PUBLIC WAYS AND PLACES

310 - Public Parks and Roadways

311 - Parks

HISTORY: 1958 Municipal Code; Amended On August 1, 1996 by Ordinance No. 402

311.1. DAILY PARK HOURS.

The parks shall be open daily to the public from five o'clock in the morning until eleven o'clock at night, unless prior written approval is obtained from the Town Manager. No person, except employees of the Town, shall remain in any park at any other time.

311.2. DESTRUCTION OF PARK PROPERTY UNLAWFUL.

311.2.1. It shall be unlawful to cut, mark, break, climb upon, or in any way injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, bridges, or other structures or property within or upon park premises.

311.2.2. It shall be unlawful to bring upon park premises any vegetation, or take away from any park premises any vegetation, or to go upon the grass, lawn or turf of the parks wherever the sign "Keep Off the Grass" is posted.

311.3. HUCKSTERING PROHIBITED.

It shall be unlawful to offer any article or thing for sale within the parks except by written permission from the Town Board of the Town of Limon.

311.4. DISTURBANCE OF THE PEACE.

It shall be unlawful, within the parks of the Town of Limon to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct, or by loud or unusual noises, or by unseemly, profane, vulgar, obscene, or offensive language or conduct, or to assault, strike, or fight another, or to in any way breach the peace.

320 - Other Public Ways

321 - Sidewalks, Curbs and Gutters

HISTORY: 1958 Municipal Code

321.1. PERMIT AND FEE FOR SIDEWALK CONSTRUCTION.

321.1.1. LICENSE REQUIRED.

No person shall construct, repair or replace any sidewalk or curb within the Town of Limon unless he is the holder of a cement layer's license issued to him by the Town Clerk of the Town of Limon, as hereinafter provided.

321.1.2. RESERVED.

321.1.3. CONTRACTOR'S GUARANTEE.

The contractor expressly guarantees all sidewalks laid by him, for a period of two years from and after its final completion and acceptance, and agrees to maintain it and make all necessary repairs of the same during the period above named without additional charge or cost to the property owners of the Town of Limon. This guaranty shall include all repairs growing out of imperfections or unsuitability of material or composition, too great or too little moisture, defects in workmanship, or settling of fills or excavations, or any change in or damage to the curb by reason of expansion of said walks. The determination of the necessity for repairs rests entirely with the Town Board, or some person or committee by it appointed for that purpose, whose decision shall be final and obligatory upon the contractor and the guaranty herein stipulated shall extend to the whole body of the sidewalk and the repairs required under it may extend to a total reconstruction of the whole body of such sidewalk, if, in the judgment of the Town Board, such total reconstruction shall become necessary. If repairs or reconstruction of any sidewalk shall become necessary as aforesaid, within the said guarantee period and the contractor shall fail or refuse to begin the necessary repairs or reconstruction as herein required, within ten days from the date the Town Clerk shall mail the contractor a written notice to make such repairs or shall fail thereafter to diligently prosecute the same to completion, then the Town may proceed to have said repairs or reconstruction done in any manner and by whomsoever it may deem best, and charge the cost of the same to the contractor, to be recovered by said Town by suit upon the bond of such contractor.

321.1.4. APPLICATION.

Every contractor, before laying any curb, gutter or sidewalk within the Town of Limon, shall file with the Town Clerk an application for a permit, which application shall describe the location of the proposed sidewalk and shall be signed by the contractor. The fee for such permit shall be one dollar ($1.00) and no permit shall issue except to the holder of a Cement Layer's License. Contractors shall notify the Town Clerk before commencement of actual construction of the date actual work will be commenced so that inspections can be made by the Town inspector while work is in progress.

321.1.5. CONSTRUCTION; MATERIALS.

All sidewalks or curbing hereafter laid or constructed in the Town of Limon shall be in strict conformity with the following rules, regulations and specifications, both as to materials and workmanship, and shall in all particulars comply with the standards and requirements of the Town of Limon, under the supervision and approval of the Town Board.

321.1.5.1. MIX. The mix of ingredients shall not be less than the following proportions, by measure: One part cement to two parts screened sand and three parts rock or gravel, with the requisite amount of water, sufficient to test 2,700 pounds per inch.

321.1.5.2. CROSS DRAINS, ALLEY GUTTERS. Alley returns and alley curbing shall be installed at the time of constructing the street curb where necessary for drainage.

321.1.5.3. SIDEWALKS IN RESIDENCE AREAS. Streamlined combination sidewalk and gutter shall be constructed in all residential areas where no curbs or sidewalks have been built adjacent to any frontage within the block and may be constructed within any residential block at the option of the owner of adjacent property. Such sidewalk and gutter shall be constructed in accordance with the plans and specifications now or hereafter approved by the Town Board and on file in the office of the Town Clerk. In instances where a different type of curb, gutter or sidewalk is in place adjacent to any frontage within the block, the new construction may conform to the type thereof.

321.1.5.4. CURBING IN COMMERCIAL AREAS. Curbing in commercial areas shall be of six-inch head curb with one-inch batter or slope, and twenty-four inch gutter.

321.1.5.5. SIDEWALKS IN COMMERCIAL AREAS. Sidewalks in commercial areas shall be four inches thick and built from the property line to rear of curb with the expansion joints between the walk and curb.

321.1.5.6. TYPE OF FINISH. The face of the curb and gutters shall be of a smooth finish. Sidewalks shall have a float finish and the surface shall be sufficiently rough so as to prevent pedestrians from slipping thereon when the walk is wet.

321.1.5.7. MATERIAL FROM EXCAVATIONS. Material from excavations for sidewalks, or otherwise, shall not be deposited back of the curb line in excess of what is necessary to bring the park area to grade for back-filling, and shall in no case be deposited on lawns or sidewalks. Gutters shall be kept free from obstruction to flow at all times, and all persons are hereby forbidden to deposit any materials which may cause obstruction to flow in the streets or gutters.

321.1.5.8. DRIVEWAYS. Where driveways cross any sidewalk the thickness of the concrete construction shall be increased to six inches or more.

321.1.5.9. GRADE. Where curbs have been constructed along the lateral boundaries of the portion of the street designated for vehicular traffic, the outer edge of the sidewalk shall be elevated above the top level of such curb at a distance of one-third of an inch for each foot of space between the inner edge of such curb and the outer edge of the sidewalk.

321.1.5.10. IDENTIFICATION. The name of the cement used, the name of the contractor and the year in which the sidewalk was laid shall be stamped in block letters at least one inch long and three eighths of an inch deep at each extension of sidewalk to curb and at all places where the work adjoins a sidewalk to curb and at all places where the work adjoins a sidewalk laid at a prior time.

321.1.5.11. PROTECTION. All sidewalks and curbs shall be thoroughly protected from injury by heat or cold until it has received its final set.

321.1.5.12. CORNERS. All sidewalks constructed abutting on corner lots shall be continued beyond the point of junction and to the inner edge of curb lines as established.

321.1.6. GRADE CERTIFICATES.

No grades for sidewalks or curbs shall be furnished by the Town Board to any person not the holder of a grade certificate issued by the Town Clerk. Applications for grade certificates shall be in writing, shall set forth the description of the property where such grade is to be established and shall be signed by the applicant, who shall, at the time of filing such application, pay to the Town Clerk a fee of $15.00 for such certificates and, in addition thereto, the sum of $8.00 for the first 150 feet, or fraction thereof, of grade desired. For grades longer than 150 feet, applicant shall pay $23.00 as above provided, and ten cents for each additional foot of grade desired.

321.1.7. CURB CUTS.

No curb shall be cut, or section removed for driveway purposes, unless a permit so to do has been granted by the Town Board, and then only upon such terms as may be prescribed.

330 - Maintenance and Care of Public Property

331 - Collection and Removal of Rubbish and Hygienic Regulations Pertaining to Public Property

HISTORY: 1958 Municipal Code

331.1. IMPROPER ACCUMULATION AND STORAGE OF RUBBISH; RIGHTS OF ENTRY; NUISANCE.

331.1.1. The Town Board or any of their authorized representatives may order the owner, occupant, or agent of the owner of any premises upon which there is an accumulation of any rubbish, ashes, garbage or other waste matter to remove such rubbish, ashes or other waste matter, or in case of garbage to permit the person or company authorized by contract with the Town of Limon, to remove, within reasonable time if such accumulation is:

331.1.1.1. Offensive to sight, or

331.1.1.2. In a condition which fosters the propagation of rats or vermin or flies or other insects; or

331.1.1.3. Otherwise unsanitary, prejudicial, or in any manner hazardous to the public health.

331.1.2. Such order shall be made in writing, delivered whenever feasible, personally to the owner, occupant, or agent of the owner, or, where such personal delivery is not feasible, posted conspicuously at the premises.

331.1.3. Such order shall specify a reasonable period within which compliance shall be had.

331.1.4. For purposes of ascertaining violations of this code and investigating complaints made hereunder, whenever reasonable cause for investigation appears, the right of entry onto any premises at any reasonable time to conduct a reasonable inspection or investigation is hereby granted to the Town Board, or any of their authorized representatives.

331.1.5. In the event that any order lawfully issued in pursuance of Section **331.1.1.** is not complied with in such reasonable time as is specified, the particular instance of improper accumulation or storage of rubbish, ashes, or garbage is hereby declared to be a nuisance and may be summarily abated by the Chief of Police.

331.1.6. It shall be unlawful to refuse to comply with any order lawfully issued in pursuance of Section **331.1.1.**

331.1.7. It shall be unlawful to hinder, prevent, or refuse to permit any lawful inspection or investigation authorized in pursuance of Section **331.1.1.**

2. UNLAWFUL DISPOSAL AND REMOVAL OF RUBBISH; TOWN BOARD'S AUTHORITY OVER DUMP AREA.

331.2.1. It shall be unlawful for any person, firm, or corporation in disposing of or removing any rubbish, or other waste matter, to litter, deposit, or cause to be deposited upon any premises other than those designated as Official City Dumps by the Town Board or their authorized representative. Provided, however, that it shall be lawful to deposit bits of waste paper and the like in waste disposal containers maintained throughout the Town by the Town.

331.2.2. It shall be unlawful to dispose of or remove ashes of any premises other than those reserved for that purpose within the area or areas designated as official Town dumps by the Town Board or their authorized representatives.

331.2.3. It shall be unlawful to deposit garbage or food processing wastes from canneries, slaughter houses, packing houses, or similar industries, condemned food products, or waste petroleum products at any official Town dump, except when and where permitted and except in accordance with the rules and regulations promulgated by the Town Board under the authority of this section.

331.2.4. The Town Board shall have authority to prescribe rules and regulations in the following matters or areas of the official Town dumps:

331.2.4.1. Designation of the area.

331.2.4.2. Areas segregated within such dump areas for the disposal of certain materials;

331.2.4.3. Prohibitions of certain materials altogether, such as food processing wastes, waste petroleum products, etc.

331.2.5. Where the Town of Limon has entered into a contract with a private person or company for the collection of garbage, no one else shall remove or cause to be removed, any garbage from private houses, hotels, restaurants, stores or any other places, and garbage shall be removed at the time and in the manner required by the contract.

331.3. CLEANING SIDEWALKS.

331.3.1. The owner, occupant, or agent or the owner of any building, property, or vacant lot in the Town of Limon is required to maintain the sidewalks, the parking and the curbs, i.e., the area from the property line to the gutter, adjoining said building, property, or vacant lot in a clean condition and to remove snow and ice from adjoining sidewalks immediately after every snowfall.

331.3.2. It shall be unlawful to sweep refuse or other waste material into the gutter.

331.4. UNLAWFUL TO DEPOSIT REFUSE ON STREETS AND PUBLIC PLACES.

It shall be unlawful to deposit in or litter any street, alley, or public place with ashes, sod, earth, sand, or gravel, any rubbish, waste paper or garbage or any other waste material.

331.5. HANDBILL AND CIRCULAR DISTRIBUTION.

If circulars, hand bills, advertisements, or other literature are distributed to private premises the distribution shall be only in compliance with the following procedure:

331.5.1. The circulars, handbills, advertisements, or other literature shall first be firmly bound or folded or shall be securely affixed or confined in some position near a principal entrance to obviate the likelihood of dispersal by the wind or the littering of any area.

331.5.2. It shall be unlawful not to comply with section **331.5.1.**, and it shall be unlawful to select or employ any person who distributes circulars, handbills, advertisements, or other printed literature except in accordance section **331.5.1.**

331.5.3. It shall be sufficient evidence to support a conviction under the terms of this section to allege and prove that any particular area was found unduly littered and unsightly by a specific kind of circular, handbill, advertisement, or other literature which was distributed by an identified distributor. However, this evidence may be rebutted by proof of the fact that the distribution was made in accordance with section **331.5.1.**

331.5.4. This section shall not apply to newspapers or other literature which are ordered by or sold to the owner or occupant of the premises, nor shall it apply to any United States mail.

331.6. BURNING OF TRASH AND WASTE MATERIAL.

331.6.1. It shall be unlawful for any person to burn, or allow to be burned, upon premises owned or controlled by them, or upon public streets and alleys adjacent to said premises, any rubbish, waste paper, wood or other inflammable material, except as provided by code or ordinance by the Town Board.

331.6.2. No waste paper or other rubbish that has a tendency to blow with the wind or float in the air shall be burned on private or public property except in an enclosed incinerator or container of wire, metal, or other non-flammable material.

340 - Occupancy of Public Property

341 - Parades, Assemblies and Meetings

HISTORY: 1958 Municipal Code.

341.1. PERMITS NECESSARY FOR PROCESSIONS AND OPEN-AIR MEETINGS.

341.1.1. No parade or procession shall be allowed upon any street or public way in the Town, nor shall any open-air public meetings be held upon any ground abutting upon any street or public way in the Town, until a permit in writing therefore shall first be obtained from the Mayor.

341.1.2. Application to conduct such parade or procession or open-air meeting shall be made in writing to the Chief of Police by the person or persons in charge or control of, or responsible therefore.

341.1.3. Such application shall, in the case of a parade or procession, set forth the route along which such parade or procession is to proceed, the time of starting, the name or names of the person, firm, corporation, or society in control thereof or responsible therefor, and the purpose of such parade or procession.

341.1.4. In case of an open-air meeting, the application shall specify the place at which it is desired to hold such meeting, the purpose thereof, the name of the person, firm, corporation, or society in control thereof or responsible therefor, the time at which such public meeting is to be held, and the probable duration thereof.

341.1.5. Upon such application being made the Chief of Police shall investigate or cause to be investigated the person, corporation, or society making such application and the truth of the statement made in such application regarding the purpose or object of such parade, procession, or open-air public meeting.

341.1.6. If he shall find that such parade, procession, or open-air public meeting is not to be held for any unlawful purpose and will not in any manner tend to a breach of the peace, or unnecessarily interfere with the public use of the streets and ways of the Town or the peace and quiet of the inhabitants thereof, he shall issue such permit to the person, firm, corporation or society making application therefor, without fee or charge.

350 - Survey and Platting

351 - Excavation

HISTORY: 1958 Municipal Code.

351.1. UNLAWFUL TO EXCAVATE WITHOUT A PERMIT.

It shall be unlawful for any person, firm, or corporation to dig up, open, or excavate, or cause to be dug up, opened, or excavated, any street, alley, sidewalk, or other public place within the corporate limits of the Town of Limon, without first having secured a permit therefor from the Town Clerk. Such permit shall be kept at the site of the excavation while the work is in progress and shall be exhibited upon request to any police officer or representatives of the Town Board.

351.2. FORM OF APPLICATION.

Application for a permit to excavate shall be made upon a blank form provided by the Town Clerk and shall recite specifically and illustrate by sketch, or plan, the exact location, depth, extent, nature and purpose of the excavation desired to be made, the purpose for which privilege is requested, and the duration of time required for work.

351.3. ISSUANCE OF PERMITS.

The Town Clerk shall grant permits to dig in, open, excavate, or cause to be dug up, opened, or excavated, any street, alley, sidewalk or other public place in the Town of Limon, to those enumerated in Sections **351.3.1.** and **351.3.2.**

351.3.1. Any person, firm, or corporation possessing by code, ordinance, or resolution, or contract of the Board, general or special power to excavate in, or perform other work as aforesaid in or upon streets, alleys, sidewalks, or other places.

351.3.2. Any person, firm, or corporation, filing application under Section **351.2.**, which application shall pertain to excavation work which shall comply with the requirements of Section **351.4.**.

351.4. CONDITIONS OF PERMIT; FEES; EXCEPTIONS.

All permits shall be issued according to the provisions of this code and subject to such rules, regulations, directions, and limitations regarding the time to be required for the work and the manner in which the work is to be performed, as the Town Board may prescribe. Such permits shall be conditioned that all work performed thereunder shall be in accordance with the rules and regulations of the Town Board which shall provide for the proper care and protection of the streets, alleys, sidewalks and other public places of the Town of Limon, and persons and property thereupon. Further, such permits shall be conditioned that all work done thereunder shall be only such work as is allowed by the Town of Limon and specified in the code, ordinance, resolution, or contract of the Board, or application submitted under Section **351.2.**

351.4.1. Applicants shall pay a fee of Three Dollars ($3.00) to the Town Clerk before the issuance of such permit; provided, however, that this provision shall not apply to permits heretofore issued. No permit issued under the provisions hereof shall be for more than one excavation project.

351.4.2. An excavation permit shall not be required for work on sidewalks, curbs, gutters, or driveways if such work is done in accordance with the terms of the provisions of a code relating thereto.

351.5. LENGTH OF CONSTRUCTION; TIME LIMIT ON WORK.

It shall be unlawful to stop up or obstruct more than the space of one block and one intersection at the same time in any one street, or to keep the same blocked up for more than two days after the repairing is finished.

351.6. TOWN CLERK TO KEEP RECORDS OF ALL EXCAVATION PERMITS.

The Town Clerk shall keep a record of all applications made for excavation permits, and of the permits so issued. It shall be the duty of every person, firm, or corporation to furnish upon request, to the Town Clerk, information regarding the location in any street, alley, sidewalk, or other public place of the Town of Limon, of any pipe or other structures installed, maintained, or utilized by such person, firm, or corporation.

351.7. UNLAWFUL TO EXCAVATE WITHOUT PRESCRIBED SAFETY APPLIANCES.

351.7.1. It shall be unlawful for any person, firm, or corporation to dig or cause to be dug, any hole, drain, ditch, or any other excavation in any street, alley, sidewalk, or other public place in the Town of Limon, without providing during the night time sufficient red lights to be placed, with suitable barricade or temporary fence around such hole, drain, ditch, or other excavation, in order to prevent persons, animals, and vehicles from sustaining injury. During the daytime the barricade shall be maintained, but red warning lights are not required.

351.7.2. Every excavation shall further be protected at all times by traffic safety appliances as prescribed by the Town Board in order to minimize the disruption of the flow of traffic in the vicinity of the excavation.

351.8. UNAUTHORIZED REMOVAL OF SAFETY APPLIANCE UNLAWFUL.

It shall be unlawful to damage, displace, remove, or interfere with any barricade, warning light, or any other safety appliance which is lawfully placed around or about any street, alley, sidewalk, or other excavation or construction work in the Town of Limon.

351.9. BACK FILLS.

Back fills shall be made in accordance with the plans and specifications furnished by the Town Board. Such plans and specifications shall conform with accepted engineering standards, and shall be specifically adapted to the particular conditions of travel, load, requirements, terrain, subsoil moisture, etc., where the back-fill is to be affected. In the event of settlement or subsidence of a particular excavation or part thereof, the permittee who had performed the excavation work shall be responsible for all repaving and repair costs occasioned thereby.

351.10. EXCAVATIONS ON PAVED STREETS AND ALLEYS.

No permit to excavate in any paved or hard topped or oil-mat street or alley shall be issued unless the applicant therefor shall have first deposited with the Town Clerk a sum of money to be fixed by the Town Board, sufficient to cover the entire expense of replacing the paving or surfacing material. If the amount is insufficient, the excavator shall pay to the Town Clerk the deficiency within ten (10) days after notice from the Town Board. Pavement and surfacing shall be replaced by the Town of Limon. Excavators in paved or hard topped streets and alleys shall take care to separate surfacing material

from the soil removed from such excavation. Upon completion of their work, excavators shall back-fill excavations as required by Section **351.9.**

351.11. UNLAWFUL TO OBSTRUCT CONSTRUCTION OPERATIONS.

It shall be unlawful to hinder or obstruct any paving operations or excavations conducted in conformance with the provisions of this Code.

351.12. LIABILITY FOR DAMAGES.

Any person, firm, or corporation who shall undertake work pursuant to a permit issued under the provisions of this Code, or to perform work under contracts with the Town of Limon or by virtue of permission obtained from the Board in accordance with the provisions of codes and/or ordinances of the said Board, shall be answerable for any damage occasioned to persons, animals, or property by reason of carelessness or negligence connected with such work.

352 - Street and Building Numbering System

HISTORY: 1958 Municipal Code; Amended on October 3, 1996 by Ordinance No. 405

352.1. EVERY BUILDING TO BE NUMBERED.

It is the duty of the owner or occupant of every building in the Town of Limon to number each such building in the manner provided herein.

352.2. ASSIGNMENT OF NUMBER BY TOWN BOARD.

The Town Board shall assign to every building its proper number.

352.3. ASSIGNMENT OF BUILDING NUMBERS.

352.3.1. Numbers heretofore assigned to lots or buildings, except as hereinafter provided, shall remain the numbers of such lots or buildings respectively.

352.3.2. In cases of mistake or conflict in street names or building numbers, the Town Manager shall direct and make proper adjustments in accordance with the spirit of this code.

352.4. DUTY TO USE ASSIGNED NUMBERS.

352.4.1. It is the duty of the owner or occupant of any buildings upon the streets of Limon upon which the said system of numbering has been adopted and in which official numbers have been provided for by assignment by the Town Board to number his building in accordance with the assignment.

352.4.2. It shall be unlawful for any such owner or occupant to retain or use or to permit to be retained or used upon any such building any number other than the number designated by assignment by the Town Board.

360 - Pershing Memorial Cemetery

(Entire Chapter added by Ordinance No. 488 on December 29, 2003.)

360.1. Establishment and Control.

360.1.1. The Town has established a municipally-owned cemetery, known as Pershing Memorial Cemetery, herein called the “Cemetery”.

360.1.2. The Board of Trustees shall have control of the operation of the Cemetery through the establishment of rules, regulations and fees as recommended by the Cemetery Board.

360.1.3. The Town Manager or designee shall serve as the sexton and have responsibility for the operation and maintenance of the Cemetery.

360.1.4. The Town Clerk shall have the responsibility for the sale of lots, recording of purchases and interments, and the maintenance of the Cemetery map.

360.2. Cemetery Fees.

The Board of Trustees shall determine the Cemetery fees including the purchase price of a lot, the cost of opening and closing the grave and a perpetual care fee and other fees as established by resolution.

360.3. Conditions of Sale and Conveyance.

360.3.1. Upon full payment of the purchase price of the lot to the Town Clerk, the Town Clerk shall deliver a properly executed deed of conveyance.

360.3.2. The rights, title and interest acquired by any person in and to any lot in the Cemetery shall be subject to the following conditions:

360.3.2.1. No cemetery lot shall be transferred by a purchaser, successors or assigns for any reason.

360.3.2.2. Any purchaser or the legally authorized representative of a deceased purchaser wishing to resell a cemetery lot shall sell the lot only to the Town, in which case the Town shall pay the price which was originally paid for the lot, as noted on the deed or in the Town records, subject to availability of funds for such repurchase. The Town shall sell the lot at the current resell price.

360.3.3. Nothing in this section shall be construed to permit the sale or conveyance of any cemetery lots, which have been used for interment.

360.3.4. The Town reserves the right to designate certain lots as unavailable for sale.

360.4. Grave Openings and Closings.

360.4.1. The Town Clerk shall be notified at least two working days (exclusive of holidays) before a funeral, unless the service is for an immediate burial request.

360.4.2. No lot or grave shall be opened, closed, filled, sodded or revegetated, except by Town employees, under the direction of the Town Manager or designee.

360.4.3. No burial of the remains of other than the immediate family of the owner of the lot shall be permitted until a signed written notice is filed by the owner, his heirs, or his assignees in the office of the Town Clerk.

360.4.4. One casket may be interred in each lot. Instead of a single casket, up to four cremains may be interred in a single space.

360.4.5. No animals shall be buried in the Cemetery.

360.4.6. No disinterments shall be allowed without permission of the State of Colorado in accordance with applicable statutes and regulations, and without the permission of the owner of the lot or the surviving next of kin of the deceased. If the consent of such persons cannot be obtained, an order of the County Court shall be sufficient.

360.4.7. Arrangements for disinterment shall be made with the Town Manager. No disinterment shall be made except by Town employees, or as otherwise provided for by law.

360.4.8. The Town shall not be liable for any injury or damage, including but not limited to, damage to monuments, markers, caskets, liners, and vegetation for a disinterment.

360.4.9. All caskets and urns will be enclosed in an approved concrete, stone or fiberglass outer burial container.

360.4.10. No burials will be permitted on Sunday or holidays without the prior approval of the Town or on the recommendation of the Colorado Department of Public Health and Environment Department.

360.5. Monuments and Markers.

360.5.1. Every grave shall be marked with a permanent marker or monument.

360.5.2. No marker or monumental work shall be permitted on weekends or holidays without prior approval of the Town Manager.

360.5.3. The Town Manager shall be notified four days before a monument or marker is placed on lot(s) and to allow sufficient time for the Town Manager to locate gravesite(s).

360.5.4. The Town shall assume no responsibility for the correct location of any monument or marker, and any changes resulting from incorrect placement will be made at the lot owner's or monument firm's expense.

360.5.5. Monument and Marker firms or installers shall be held responsible for any damage done by them to other monuments, markers, grass, trees, walkways, roads, etc., in the Cemetery.

360.5.6. All monuments and markers shall be constructed of marble, bronze, granite, or other permanent materials specifically approved by the Town.

360.5.7. All monuments and markers shall be set at the head of the lot.

360.5.8. Vertical or ground level monuments and markers will be allowed in Cemetery Sections 1-9, except that only the ground-level monuments and markers will be allowed in Cemetery Section 9, lots 1, 2, 3, 18, 19, 20, 21, 22, 23, 28, 29, 30, 31, 32, 33 and 34, as they are developed.

360.5.9. Vases included on flat, ground level monuments and markers, shall be of the "flip down", inverted, type construction to facilitate flush consistency with the monument or marker when inverted.

360.5.10. Only one monument or marker will be allowed for each lot, even if more than one cremains exists in said lot.

360.5.11. No lot shall be marked or defined by any fence, coping, railing, hedge or embankment, nor shall any lot be filled above the established grade.

360.5.12. The use of tiles, bricks, gravel, crushed rock, shells, or other similar materials are prohibited.

360.5.13. No monument or marker will be permitted which is cut in the silhouette of dogs, cattle, any animal or any grotesque figure.

360.5.14. A 5-inch concrete platform will surround the edge of the monument or marker.

360.6. Decoration of Lots.

360.6.1. Planting of live flowers, bushes or trees of any kind is prohibited on the lot and will be removed by the Public Works Department.

360.6.1.1. Artificial or fresh cut flowers may be placed on the lot in a metal or plastic vase at any time.

360.6.1.2. Glass containers are prohibited.

360.6.1.3. Artificial or fresh cut flower sprays, wreaths, and evergreens may be placed on the lot, but must be placed in a location as not to interfere with the routine maintenance of the lot.

360.6.1.4. All decorations will be discarded when dead, faded, broken, or otherwise in unsightly condition.

360.6.2. Small U.S. flags and memorial flags are permitted on the lot. Flags will be removed when they become torn, frayed, or otherwise unsightly.

360.6.3. All other decorations are prohibited.

360.7. Maintenance Responsibilities.

The Town shall care for and maintain all roads, walks, pathways, grass, ground, shrubbery and improvements in the Cemetery; provided, however that lot owners are to maintain all monuments and markers erected on their lots.

360.8. Supervision of Funerals.

360.8.1. All funerals, upon arrival at the Cemetery, shall be under the direct supervision of the Town Manager or designee, which may include other Town staff or licensed mortician.

360.8.2. The Town Manager shall not permit the interment or other disposition of any body in the Cemetery unless the body is accompanied by a burial, removal or transit permit.

360.8.3. Permits shall be filed with the county of record.

360.9. Prior Internment.

360.9.1. Nothing herein shall be construed to affect or alter the rights of persons who, prior to the adoption of this chapter, were interred in the Cemetery.

360.9.2. The Town Clerk shall maintain a list of all prior interments, within the limits of reasonably available interment information.

360.10. Liability.

The Town shall not be liable for any injury or damage to any cadaver, personal effects, monument, marker, landscaping, improvement, or other structure or item in the Cemetery resulting from any cause beyond its reasonable control.

360.11. Burial in Approved Cemetery Within Town Required.

The interment of any deceased person within the corporate limits of the Town, except in the duly authorized cemetery by authorized personnel of the Town, is prohibited.

360.12. General Rules and Penalty.

360.12.1. The Cemetery shall be open to the public from sunrise to sunset.

360.12.2. Visitors are reminded that the grounds are sacredly devoted to the interment of the dead, and that strict observance to appropriate decorum will be required of all.

360.12.3. The Town Manager or specific designee are authorized to remove all persons who commit any indecorum or violate these rules.

360.12.4. No person or persons shall be allowed to desecrate the cemetery by removing, destroying, or defacing the flowers, shrubs, trees, monuments, markers or anything or object placed therein for the beautification of the cemetery; or by allowing any livestock and domestic animals to gain access to the cemetery.

360.12.5. Taking flowers, unless those from next of kin, is strictly prohibited.

360.12.6. Visitors must keep vehicles only on designated roadways.

360.12.7. The Town shall have the right to refuse any portion of any parcel of the cemetery for the use of any specific person or activity.

360.12.8. No advertisement of any form will be permitted in the cemetery, only discreet informational tags of service rendered in dimensions of no more than 2 inches by 3 inches.

360.12.9. Any person who violates the provisions of this code shall, upon conviction, be punishable by a fine of not more than Five Hundred Dollars ($500.00). Each day that such violation shall continue shall constitute a separate and distinct offense.

400 -- ORDINANCES NOT REPEALED

410 - Text of Ordinances Not Repealed

HISTORY: 1958 Municipal Code.

411 - (No. 68) - Use, Storage, and Sale of Inflammable Liquids

HISTORY: Adopted November 6, 1924 by Ordinance No. 24.

411.1. This code shall apply to all plants, systems, equipment or devices hereinafter constructed or installed within the Town of Limon for the use, handling, storage or sale of gasoline or other inflammable liquids, and to existing plants, systems, equipment or devices, when in the judgment of the Building Inspector the same constitutes a menace to life or property.

411.2. It shall be unlawful for any person, firm or corporation to keep or have in excess of five gallons of gasoline or other inflammable liquid on any premises within the Town of Limon without first obtaining a permit from the Building Inspector except as hereinafter provided. The Town Clerk shall collect a fee of $5.00 for every such permit to install any tank, pump or apparatus for the storage or handling of gasoline or other inflammable liquids.

411.3. Every application for a permit to sell or store inflammable liquids shall be made to the Town Clerk, and upon the receipt of the application and fee he shall direct the Building Inspector to inspect the premises, surroundings and arrangements, proposed to be used for such sale or storage and if the conditions and surroundings are such that the intent of this code can be observed, he shall approve the application and the Town Clerk issue a permit subject to final inspection.

411.4. No tank or other container for inflammable liquids shall be covered from sight until the Building Inspector shall have examined and approved such tank or container.

411.5. It shall be unlawful for any person, firm or corporation to have or keep more than five gallons of gasoline or other inflammable liquids on his premises at any one time unless the same is contained in an underground storage tank approved and bearing the label of the Underwriters' Laboratories, and constructed, installed and maintained in accordance with the specifications, rules and regulations as are now on file at the office of the Town Clerk of the Town of Limon, or kept in the reservoirs of automobiles, except that not to exceed 60 gallons of inflammable liquid having a flash point of 100 degrees Fahrenheit, may be kept in auxiliary tanks of approved oil burning systems as provided in Section **411.11.**

411.6. By special permission of the Board of Trustees storage tanks above the ground may be permitted in sparsely populated sections of the town but not within two hundred feet of any buildings except those used in connection therewith.

411.7. The drawing of inflammable liquids from tank cars shall not be permitted at any location where in the judgment of the Building Inspector such operation would be unsafe to life and property. The person or firm to whom such tank cars are consigned shall empty such cars within a period of twelve hours, and shall complete the emptying within twenty-fours hours from the time such tank cars are placed in possession for unloading.

411.8. In all buildings or parts of buildings used for commercial purposes which contain gasoline or other inflammable liquids in which vapors from inflammable liquids are present smoking shall be deemed a misdemeanor, the owner of such buildings shall display signs lettered "Smoking Prohibited." Any person found guilty of smoking upon such premises shall be deemed guilty of a misdemeanor and subject to the punishment as hereinafter provided.

411.9. No person shall open or fill any gasoline tank of an automobile or motorcycle or other internal combustion engine while the engine or motor is running. No inflammable liquid shall be stored, drawn or handled in close proximity to fire or open flame.

411.10. Buildings where inflammable liquids are used in washers in connections with Dry Cleaning establishments shall be located outside the fire limits of the Town of Limon, or within the fire limits when such building is constructed wholly of non-combustible material and located at least ten feet from any other building, and used for no other purposes.

411.11. All tank wagons or trucks, and wagons or trucks containing tanks with faucets, when used for the distribution of gasoline or other inflammable liquids, shall be a substantial, workmanlike construction and shall be subject to the approval of the Building Inspector who shall inspect and keep a record of such wagons or vehicles, which shall be plainly marked with their record number. All faucets connected to such trucks or wagons

shall be kept locked or have handles removed when not in actual use, such handles to be so constructed that they may not be removed except when the faucet is tightly closed, and all measures and faucets shall be covered or otherwise protected.

411.12. Oil burners and systems for domestic heating in stoves and furnaces shall not be used or installed unless approved by the Underwriters' Laboratories and installed in accordance with the standards of the National Board of Fire Underwriters, and such standards are hereby made a part of the requirements of this code. This section shall not apply to oil burners using a wick.

411.13. No dry cleaning establishment or automobile garage, repair shop or other business using or keeping on hand at any one time gasoline or other highly volatile inflammable liquids in quantities exceeding five gallons shall hereafter be allowed in any building which is occupied above the first floor as a place of public assemblage, or as a factory employing over five persons, or as a hotel, rooming house or for dwelling purposes.

411.14. Any person, firm or corporation who shall violate any provision of this code shall, upon conviction, be fined in a sum of not less than ten ($10.00) nor more than three hundred dollars ($300.00) for each offense.

412 - (No. 107) - Sale and Use of Fireworks

HISTORY: Adopted August 3, 1939 by Ordinance No. 107; amended completely on June 27, 2002 by Ordinance No. 474

412.1. DEFINITIONS.

The following words shall have the stated meanings for purposes of this Code:

412.1.1. Display retailer: any person licensed with the State of Colorado pursuant to Title 12, Article 28, of the Colorado Revised Statutes, and given the authority to store and/or sell fireworks.

412.1.2. Fireworks: any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation which meets the description of fireworks as set forth in the United States Department of Transportation Hazardous Materials Regulations, Title 49, Code of Federal Regulations, Parts 173.88 and 173.100. "Fireworks" does not include toy caps which do not contain more than twenty five hundredths of a grain of explosive compound per cap, highway flares, railroad fuses, ship distress signals, smoke candles, and other emergency signal devices, or educational rockets, toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges designed to be ignited by electrical means, or fireworks which are used in testing or research by a licensed explosive laboratory.

412.1.3. Permissible Fireworks: means the following items designed primarily to produce visual or audible effects by combustion, including certain devices designed to produce audible or visual effects, except that no device or component shall, upon functioning, project or disburse any metal, glass, or brittle plastic fragments:

412.1.3.1. Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside diameter shall not exceed three-quarters of one inch.

412.1.3.2. Cone fountains, total pyrotechnic composition not to exceed fifty grams each in weight.

412.1.3.3. Wheels, total pyrotechnic composition not to exceed sixty grams for each driver unit or two hundred forty grams for each complete wheel. The inside tube diameter of driver units shall not exceed one-half of one inch.

412.1.3.4. Ground spinner, a small device containing not more than twenty grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground.

412.1.3.5. Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight.

412.1.3.6. Dipped sticks and sparklers, the total pyrotechnic composition of which does not exceed one hundred grams, of which the composition of any chlorate or perchlorate shall not exceed five grams.

412.1.3.7. Explosive auto alarms, as described in Title 49, code of federal regulations, part 173.100.

412.1.3.8. Toy propellant devices and toy smoke devices, as described in Title 49, code of federal regulations, part 173.100.

412.1.3.9. Cigarette loads, as described in Title 49, code of federal regulations, part 173.100.

412.1.3.10. Trick matches, consisting of book matches, strike-any-where matches, or strike-on-box matches, as described in Title 49, code of federal regulations, part 173.100.

412.1.3.11. Trick noise makers, as described in Title 49, code of federal regulations, part 173.100.

412.1.3.12. Snake or glow worm, pressed pellets of pyrotechnic composition that produce a large snake-like ash upon burning.

412.1.3.13. Novelties consisting of two or more devices enumerated in this Section **412.1.3.**

412.1.4. **Person:** an individual, partnership, firm, company, business, association, corporation, or governmental entity.

412.2. UNLAWFUL USE OR SALE OF FIREWORKS.

Except as provided for in this Code, the following is declared to be unlawful and punishable as set forth herein:

412.2.1. No person shall sell, offer for sale, expose for sale, possess with intent to sell, import, export, or store fireworks or permissible fireworks unless and until such person has been appropriately licensed by the State of Colorado pursuant to the provision of Title 12 Article 28 of the Colorado Revised Statutes. Such license and/ or permit shall be appropriately displayed at the person's place of business with all required state notices and warnings.

412.2.2. It shall be unlawful for any person who is under sixteen years of age to purchase any fireworks, including those defined as permissible fireworks. However, at all times that it is lawful for any person over the age of sixteen years to possess and discharge permissible fireworks, it shall also be lawful for a person under the age of sixteen years to possess and discharge permissible fireworks, if such person is under adult supervision.

412.2.3. Except as set forth in Section **412.3.** it shall be unlawful for any person to possess or discharge any fireworks, other than permissible fireworks.

412.2.4. Section **412.2.** shall not be construed so as to prevent the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the use of blank cartridges for a show, theatrical production, or for ceremonial purposes in athletic or sporting events, or use by military organizations. Further this section shall not be construed to prevent the sale, purchase, possession, or use of fireworks distributed by the division of wildlife for agricultural purposes under condition approved by the division or the sale, delivery, consignment, gift, or furnishing of fireworks among display retailers, wholesalers, or exporters licensed under the laws of this state.

412.3. PERMITTED DISPLAY AND USE OF FIREWORKS.

As allowed by state statute, the Town or its authorized agent or agents, is authorized to store and use fireworks at scheduled public events, including but not limited to Independence Day celebrations, and to adopt such reasonable rules and regulations as may be necessary for the safety of the citizens and property. Further, the Town, retains the power to grant nontransferable and nonassignable permits within the Town limits for the use and display of fireworks by any person, fair association, amusement park, or other similar organizations or groups, provided that such person or entity complies with any and all reasonable rules and regulations that may be imposed by the Town as a condition for the granting of such permit.

412.4. EMERGENCY PROHIBITION OF THE USE OF FIREWORKS AND PERMISSIBLE FIREWORKS BY RESOLUTION.

In the event that the Governor of the State of Colorado, State Legislature, or other local, state, or federal governmental entity, endowed with decision making authority concerning the use of fireworks or permissible fireworks, or in the event that the Town Board, due to dry weather conditions, or other factors which through the danger of fire present a health and safety concern to the citizens and property of the Town, determine that a total prohibition of the use, sale, and possession of fireworks and permissible fireworks is necessary and required, then the Board through emergency Resolution, may prohibit the use, sale, and possession of fireworks for such time and under such conditions as the Board deems necessary for the health, safety, and welfare of its citizens and property.

412.5. PENALTY.

Any person found to have violated the terms of this Section **412** shall be subject to a fine in an amount not to exceed Five Hundred Dollars ($500.00) per occurrence. In addition, the Municipal Court Judge may require restitution and costs from the violator in an amount

sufficient to cover any damage or injury caused by the unauthorized use, sale, or possession of fireworks or permitted fireworks.

413 - (No. 110) - Closing Hours for Pool Halls

HISTORY: Adopted February 6, 1941 by Ordinance No. 110. Deleted in its entirety on October 6, 1994 by Ordinance No. 380

414 - (No. 135) - Garbage Tax

HISTORY: Adopted April 5, 1951 by Ordinance No. 135. Deleted in its entirety on October 8, 1994 by Ordinance No. 380

415 - (No. 160) - Licensing and Regulating Coin Operated Amusements

HISTORY: Adopted March 15, 1957 by Ordinance No. 160. Deleted in its entirety on June 1, 1995 by Ordinance No. 388.

420 – Historical Numbered Designations of Ordinances

Section **420** precedes the ordinance number below only in this section for documentation and organizational purposes. The second number is the actual ordinance number passed by the town board, since The Town Board's first meeting held on December 30th, 1909; if data is available. In the documentation of bond issues parenthesis represent the computed maturity dates and brackets represent the actual retired date, again, if data is available.

420.2. Rules and Orders of Business: January 13th, 1910.

420.24. Use, Storage, and Sale of Inflammable Liquids: November 6th, 1924.

420.27. Creation of Limon Sewer District No. 1 and Bonds.

420.64. Vacating a Portion of Second Street.

420.68. Use, Storage, and Sale of Inflammable Liquids: November 6th, 1924.

420.85. Vacating Certain Streets.

420.95. Creation of Limon Special Improvement District No. 2.

420.105. Franchise - Mountain States T. and T. Co.

420.107. Sale and Use of Fireworks: August 3rd, 1939.

420.110. Closing Hours for Pool Halls: February 6th, 1941. Repealed by Ordinance No. 380.

420.122. Water Bonds; $18,000: May, 1966.

420.123. Gas Line Franchise - Loran L. Laughlin: April 15th, 1947.

420.126. Franchise - Mountain View Electric Association.

420.130. Water Bonds; $10,000: 1960.

420.134. Water Bonds; $20,000: 1966.

420.135. Garbage Tax: April 5th, 1951. Repealed by Ordinance No. 246 & 380.

420.136. Vacating Certain Streets.

420.137. Vacating Certain Alley.

420.140. Water Bonds; $20,000: 1962.

420.145. Annexation of Land.

420.146. Annexation of Land: October 1st, 1953.

420.149. Water Bonds: $80,000: 1975.

420.152. Franchise - Bender Community TV Company: March 1st, 1956.

420.154. Bonds, Water; $50,000: 1972.

420.155. Bonds, Pool; $35,000: 1970.

420.157. Bonds, Pool; $15,000: 1971.

420.160. Licensing and Regulating Coin Operated Amusements: March 15th, 1957. Repealed by Ordinance No. 388.

420.161. Public Library: May 6th, 1957.

420.162. Public Cemetery: May 6th, 1957.

420.163. Annexation of Land.

420.164. Legal Description of Land.

420.166. Adoption of Model Traffic Code: Repealed by Ordinance No. 182.

420.167. Code of 1958: April 3rd, 1958.

420.168. Coin Operated Games: June 10th, 1958.

420.169. Sewer Rental Charges July 7th, 1958.

420.170. Defining Nuisance: July 28th, 1958.

420.171. Sewers: July 7th, 1958.

420.172. Budget Year 1959: October 9th, 1958.

420.173. Budget Year 1960: October 8th, 1959.

420.174. Sewer Revenue Bonds for Sewage Lagoon; $14,000.00: May 25th, 1960. (July 15th, 1974)

420.175. Budget Year 1961: November 3rd, 1960.

420.176. Solicitors & Canvassers: November 3rd, 1960. Repealed by Ordinance No. 196.

420.177. Sell Property: March 21st, 1961. Repealed by Ordinance No. 339.

420.178. Budget Year 1962: November 2nd, 1961.

420.179. Sell Property: December 7th, 1961.

420.180. Water Rates: June 21st, 1962.

420.181. Budget Year 1963: October 4th, 1962.

420.182. Model Traffic Code: March 7th, 1963. Repealed by Ordinance No. 201.

420.183. Baskett Heights Annexation: August 12th, 1963.

420.184. Budget Year 1964: October 3rd, 1963.

420.185. Circle Lane Annexation: April 2nd, 1964.

420.186. Budget Year 1965: October 1st, 1964.

420.187. Police Magistrate, Fees: May 6th, 1965. Repealed in its entirety by Ordinance No. 375.

420.188. Building Zones: June 3rd, 1965.

420.189. Playground Agreement: July 1st, 1965.

420.PHA1. Planning Commission: July 1st, 1965.

420.190. Budget Year 1966: October 7th, 1965.

420.191. Building Zone Amendment: March 3rd,1 966.

420.192. Code Amendment – Trailer: March 3rd, 1966. Repealed by Ordinance No. 376.

420.193. First Baskett Hills Annexation: June 10th, 1966.

420.194. Building Code Amendment: August 4th, 1966.

420.195. Dog Amendment: September 1st, 1966.

420.196. Canvassers & Solicitors: September 1st, 1966.

420.197. Budget Year 1967: October 6th, 1966.

420.198. Mountain View Franchise: January 5th, 1967.

420.199. Plateau Natural Gas Franchise: April 6th, 1967. Repealed by Ordinance No. 318.

420.200. Budget Year 1968: October 5th, 1967.

420.201. Model Traffic Code: March 14th, 1968. Repealed by Ordinance No. 217.

420.202. Dogs Vaccination & License: April 11th, 1968.

420.203. Warner Addition Annexation: July 9th, 1968.

420.204. Land Sale: September 5th, 1968.

420.205. Budget Year 1969: October 3rd, 1968.

420.206. Telephone Business and Occupation Tax: November 7th, 1968.

420.207. Speed Limits: April 3rd, 1969. Repealed by Ordinance No. 217.

420.208. Budget Year 1970: October 2nd, 1969.

420.209. Peace Officers: November 6th, 1969.

420.210. Water Rates: November 6th, 1969.

420.211. Highway Department Property: January 2nd, 1970.

420.212. Raines Addition Annexation: March 17th, 1970.

420.213. Budget Year 1971: November 5th, 1971.

420.214. Budget Year 1972: October 7th, 1971.

420.215. Four Year Overlapping Terms for Trustees and Four Year Terms for Mayor: December 2nd, 1971.

420.216. Control of Refuse and Disposal Site: January 6th, 1972.

420.217. Model Traffic Code: January 6th, 1972. Repealed by Ordinance No. 229.

420.218. Fireman's Pension: January 6th, 1972.

420.219. Police Pension: January 6th, 1972. Repealed in its entirety by Ordinance No. 380.

420.220. Water Rates Amendment: October 5th, 1972.

420.221. Sewer Rates Amendment: October 5th, 1972.

420.222. Budget year 1973: October 5th, 1972.

420.223. Cigarette Tax: October 9th, 1972. Repealed by Ordinance No. 227.

420.224. Mobile Home Park License Fee: December 7th, 1972.

420.225. Vern's TV Cable Franchise: May 3rd, 1973.

420.226. Municipal Building Bond; $125,000: May 16th, 1973. (May 1st, 1981)

420.227. Repeal Mulltiple Ordinances: June 7th, 1973.

420.228. Budget Year 1974: October 4th, 1973.

420.229. Model Traffic Code: March 7th, 1974. Repealed by Ordinance No. 247.

420.230. Acquiring Golf Course: March 7th, 1974.

420.231. Golf Course Bonds; $225,000: March 7th, 1974. (January 1st, 2014) [December 3rd, 2009]

420.232. Building Zones: October 3rd, 1974.

420.233. Budget Year 1975: October 3rd, 1974.

420.234. Duties of Chief of Police and Town Superintendent: April 3rd, 1975.

420.235. Town Dump Charges: August 7, 1975. Repealed by Ordinance No. 282.

420.236. Budget Year 1976: October 2nd, 1975.

420.237. Baskett Annexation: March 4th, 1976; rerecorded March 17th, 1994.

420.238. Land Sale/Nall: May 6th, 1976.

420.239. Hours for Irrigation: August 16th, 1976. Repealed by Ordinance No. 271.

420.240. Budget Year 1977: October 26th, 1976.

420.241. Telephone Business and Occupation Tax: October 7th, 1976.

420.242. Increase Cable Rates/Vern's TV: December 3rd, 1976.

420.243. Water Rates: June 2nd, 1977.

420.244. Budget Year 1978: October 26th, 1977.

420.245. Sewer Rates: December 1st, 1977.

420.246. Repeal Ordinance 135 Water Rates: December 1st, 1977.

420.247. Model Traffic Code: February 2nd, 1978.

420.248. Water Bonds 1978; $1,625,000: March 9th, 1978. (December 15th, 2003)

420.248A. Water Bonds; Amend Ordinance 248: March 20th, 1978.

420.249. Packard Property Sale: March 7th, 1978.

420.250. Beer and Liquor Code Fees: May 4th, 1978.

420.251. Sales Tax/Personal Property: July 27th, 1978.

420.252. Sewer Revenue Bonds; $395,000: October 26th, 1978. (November 1st, 1998)

420.253. Budget Year 1979: November 2nd, 1978.

420.254. Budget Year 1979: November 2nd, 1978.

420.255. Repeal Ordinance No. 219: November 28th, 1978.

420.256. Traffic Regulation: February 1st, 1979.

420.257. Model Energy Efficiency Construction: March 2nd, 1979.

420.258. Amend Ordinance No. 188 & 232 Zoning: April 5th, 1979.

420.259. Amend Ordinance No. 251, Sales Tax Exemptions Use Tax Collection: July 5th, 1979.

420.260. Water Bonds; $785,000: November 1st, 1979. (July 1st, 2020) [March 2nd, 1989]

420.261. Water Bonds; $631,000: November 1st, 1979. (July 1st, 2020) [March 2nd, 1989]

420.262. Water Bonds; $320,000: November 1st, 1979. (December 17th, 2009)

420.263. Water Rates: November 1st, 1979.

420.264. Budget Year 1980: November 1st, 1979.

420.265. Budget Year 1980: November 1st, 1979.

420.266. Amend Ordinance No. 262: December 6th, 1979.

420.267. Amend Ordinance No. 261, Water Bond Amounts and Due Dates: February 7th, 1980.

420.268. Budget Year 1981: November 6th, 1980.

420.269. Budget Year 1981: November 6th, 1980.

420.270. Amend Ordinance No. 188, 232, & 258, Zoning: Tabled February 5th, 1981.

420.271. Repeal Ordinance No. 239: May 7th, 1981.

420.272. Amend Ordinance No. 167 & 246, Water Connection Permits: May 7th, 1981.

420.273. Amend Ordinance No. 171 & 245, Sewer Connection Permits: May 7th, 1981.

420.274. Amend No. 188 & 232, Rezone: July 2nd, 1981.

420.275. Vacating Street: August 6th, 1981.

420.276. Vacating Alleyway: August 6th, 1981.

420.277. Raines Second Addition Annexation: September 3rd, 1981.

420.278. Amend Ordinance No. 202, Dogs: October 1st, 1981. Repealed by Ordinance No. 299.

420.279. Amend No. 167, Livestock: November 5th, 1981. Repealed by Ordinance No. 376.

420.280. Budget Year 1982: November 5th, 1981.

420.281. Budget Year 1982: November 5th, 1981.

420.282. Repeal Ordinance No. 235, Dump Charges: January 7th, 1982.

420.283. Special Improvement District: May 6th, 1982.

420.284. Street Vacating: April 1st, 1982.

420.285. Water Bill Delinquent Notice: April 1st, 1982.

420.286. Refusal of Lots for Park: June 3rd, 1982.

420.287. Special Assessment Bonds; $75,000: August 5th, 1982. (September 1st, 2002)

420.288. Budget Year 1983: December 2nd, 1982.

420.289. Budget Year 1983: December 2nd, 1982.

420.290. Hazardous Response Authority: December 2nd, 1982.

420.291. Regulating Wind Powered Electricity – Generating Equipment: January 6th, 1983.

420.292. Prohibiting Disposal of Hazardous Waste Upon Property in Town: January 6th, 1983.

420.293. Cost Recovery Agreement: May 5th, 1983. Repealed by Ordinance No. 376.

420.294. Refuse Collection Service Rates: February 3rd, 1983.

420.295. Amend Ordinance No. 171, Special Improvement District 1982-1: February 3rd, 1983.

420.296. Special Improvement District Costs: April 7th, 1983.

420.297. Vacating Portion of N Avenue: May 5th, 1983.

420.298. Vern's TV Cable Franchise: August 4th, 1983.

420.299. Amend Ordinance No. 202, Dogs, Vaccinations & Repeal Ordinance No. 278: September 1st, 1983.

420.300. A Curative Ordinance to Cure and Validate the Defective Enactment of Ordinance No. 279: October 6th, 1983. Repealed by Ordinance No. 376.

420.301. Amend Ordinance No. 167, Disturb the Peace: October 6th, 1983.

420.302. Budget Year 1984: December 1st, 1983.

420.303. Budget Year 1984: December 1st, 1983.

420.304. Amend Ordinance No. 247, Traffic Regulation: February 2nd, 1984.

420.305. Amend Ordinance No. 298, Cable TV Charges: May 3rd, 1984.

420.306. Flood Ordinance: October 4th, 1984.

420.307. Heavy Vehicle Route: February 7th, 1984.

420.308. Cable Transfer to Cripple Creek Cable: December 6th, 1984.

420.309. Amend Ordinance No. 188, Building Zones: December 6th, 1984.

420.310. Budget Year 1985: December 27th, 1984.

420.311. Budget Year 1985: December 27th, 1984.

420.312. Amend Ordinance No. 221, 294, Billing for Sewer, Refuse Collection and Use of Dump: February 7th, 1985.

420.313. Lease Agreement for Town Shop from JINCO Leasing: October 3rd, 1985.

420.314. Budget Year 1986: December 30th, 1985.

420.315. Budget Year 1986: December 30th, 1985.

420.316. Amend Ordinance No. 167, Water Rates: May 1st, 1986.

420.317. Amend Ordinance No. 167 & 312, Sewer Rates: May 1st, 1986.

420.318. Peoples Natural Gas Franchise: November 6th, 1986.

420.319. Amend Ordinance No. 167, Municipal Court: November 6th, 1986.

420.320. Street, Curb, Gutter Improvements on Ninth Street: November 6th, 1986.

420.321. Budget Year 1987: December 30, 1986.

420.322. Budget Year 1987: December 30, 1986.

420.323. Budget Year 1988: November 19th, 1987.

420.324. Budget Year 1988: November 19th, 1987.

420.325. Cable TV Transfer/Televents: December 3rd, 1987.

420.326. Amend Ordinance No. 167, Municipal Code: December 3rd, 1987.

420.327. Street, Curb, Gutter Improvements on Ninth Street: March 3rd, 1988.

420.328. Lease for Loader: June 2nd, 1988.

420.329. Curfew: November 3rd, 1988.

420.330. Amend Ordinance No. 306, Flood: November 3rd, 1988.

420.331. Revenue Bonds 1988, $5,000,000: November 22nd, 1988. (December 10th, 2008)

420.332. Budget Year 1989: November 28th, 1988.

420.333. Budget Year 1989: November 28th, 1988.

420.334. Easement for Road to Treatment Plant: February 2nd, 1989.

420.335. Amend Ordinance No. 216, Refuse Collection Service and Use of Town Disposal Site: February 2nd, 1989.

420.336. Cable Transfer/Vantage Cable: January 5th, 1989.

420.337. Water Bond Refunding Ordinance No. 260, 261 and 267; $592,000: March 2nd, 1989. (July 1st, 2010) [July 7th, 1994]

420.338. Budget Year 1990: November 27th, 1989.

420.339. Limon Wastewater Treatment System: June 14th, 1989.

420.340. Budget Year 1990: November 27, 1989.

420.341. Vacating P Avenue: December 7th, 1989.

420.342. Water, Sewer Improvements: March 8th, 1990.

420.343. Building Contractor Registration: June 11th, 1990. Repealed by Ordinance No. 404.

420.344. Uniform Building Code: June 26th, 1990. Repealed by Ordinance No. 367.

420.345. Emergency Telephone Service Agreement: December, 1990.

420.346. Amend Ordinance No. 306, Flood: November 15th, 1990.

420.347. Budget Year 1991: December 6th, 1990.

420.348. Budget Year 1991: December 6th, 1990.

420.349. Construction of Town Hall, Streetscape: January 17th, 1991.

420.350. Water, Sewer Improvements: March 7th, 1991.

420.351. Vacating Portion of 2nd Avenue: May 2nd, 1991.

420.352. Amend Ordinance No. 188 & 232, Rezone: June 17th, 1991.

420.353. Amend Ordinance No. 188 & 232, Rezone: July 11th, 1991.

420.354. Town Hall Project Lease: October 25th, 1991.

420.355. Budget Year 1992: December 12th, 1991.

420.356. Budget Year 1992: December 12th, 1991.

420.357. Arboriculture/Line of Sight: December 12th, 1991.

420.358. Weeds: February 13th, 1992. Repealed and replaced by Ordinance No. 476.

420.359. Property Sale: March 5th, 1992.

420.360. Write-In Candidate, Election Cancellation: April 9th, 1992.

420.361. Mountain View Franchise: June 4th, 1992.

420.362. Unclaimed Property: Jun 25th, 1992.

420.363. Authorizing Colorado Water Series 1992: Bond; $228,300: August 6th, 1992. (June 1st, 2002) [May 4th, 2000]

420.364. Franchise Application Fee: November 5th, 1992.

420.365. Property Taxes for 1993: December 12th, 1992.

420.366. Budget Year 1993: December 12th, 1992.

420.367. Building Codes: February 4th, 1993.

420.368. Traffic Regulation: February 4th, 1993.

420.369. Vantage Cable Franchise: August 5th, 1993.

420.370. Refuse Collection Rates: August 5th, 1993.

420.371. Codification, Municipal Code: December 2nd, 1993.

420.372. Budget Year 1994: December 9th, 1993.

420.373. Property Taxes for 1994: December 9th, 1993.

420.374. Cemetery Board: March 3rd, 1994.

420.375. Municipal Court: March 3rd, 1994.

420.376. Land Development Code & Official Zoning Map: June 2nd, 1994.

420.377. Water Refunding Bonds Payment Series 1994; $1,490,000: July 7th, 1994. (September 1st, 2005) [December 6th, 2001]

420.378. Junk Vehicles & Junkyards: July 7th, 1994.

420.379. Amend Ordinance No. 378: August 4th, 1994.

420.380. Amend Sections of Municipal Code: October 6th, 1994.

420.381. Charges for Wastewater Service: December 1st, 1994.

420.382. Budget Year 1995: December 1st, 1994.

420.383. Property Taxes 1995: December 1st, 1994.

420.384. Galaxy Telecom Cable Transfer: December 1st, 1994.

420.385. Amend Section 521, Junk, Junked Vehicles and Junkyards: February 2nd, 1995.

420.386. Boards & Commissions: April 6th, 1995.

420.387. Grazing Lease: May 4th, 1995.

420.388. Deleting Licensing and Regulating Coin Operated Amusements: June 1st, 1995.

420.389. Lease Agreement for Pre-school: June 1st, 1995.

420.390. Drainage Flows: July 6th, 1995.

420.391. Emergency Response Authority Hazardous Materials Incidents: August 3rd, 1995.

420.392. Airport Land Contract: November 2nd, 1995.

420.393. Model Traffic Code: December 7th, 1995.

420.394. Budget Year 1996: December 7th, 1995.

420.395. Amending Sales & Use Tax: January 4th, 1996.

420.396. Vacating a Portion of 9th Street: June 6th, 1996.

420.397. Amend Junk, Junked Vehicles and Junkyards: May 2nd, 1996.

420.398. Amend Municipal Code Regarding Duties of Appointed Officers: June 6th, 1996.

420.399. Curfew for Minors: June 6th, 1996.

420.400. Angle Parking: August 1st, 1996.

420.401. Amending Sales & Use Tax: August 1st, 1996.

420.402. Daily Park Hours: August 1st, 1996.

420.403. Uniform Building Code: August 1st, 1996.

420.404. Building Contractors: October 3rd, 1996.

420.405. Street Names & Numbers: October 3rd, 1996.

420.406. Tree Trimmers: November 7th, 1996.

420.407. Budget Year 1997: December 5th, 1996.

420.408. Water Rate Increase: December 5th, 1996.

420.409. Junk Vehicles & Junkyard: December 5th, 1996.

420.410. Fire Department Pensions: January 2nd, 1997.

420.411. Land Development Code: January 2nd, 1997.

420.412. Out of Town Water Usage: April 3rd, 1997.

420.413. Lease Agreement for Library and Morgan Community College: April 3rd, 1997.

420.414. Amend Municipal Code Regarding Penalty Assessment Notices, and Points: August 14th, 1997.

420.415. Board of Adjustments: September 4th, 1997.

420.416. Land Development Code Change: October 2nd, 1997.

420.417. Lease Agreement with Pre-school: October 2nd, 1997.

420.418. Amend Zoning Map: November 6th, 1997.

420.419. Market Place Annexation: November 6th, 1997.

420.420. Coleman Annexation: November 17th, 1997.

420.421. Budget Year 1998: December 4th, 1997.

420.422. Sale of Property to Ben F. Parmer: May 6th, 1998.

420.423. Amend Angle Parking: September 3rd, 1998.

420.424. Amend Section **200** of Municipal Code Concerning Emergency Services: October 23rd, 1998.

420.425. Amend Section **135** of Municipal Code – Water Department Water Rate Change: November 5th, 1998.

420.426. Amend Section **638** of Municipal Code – Angle Parking: November 5th, 1998.

420.427. Budget Year 1999: December 3rd, 1998.

420.428. Amend Heavy Vehicle Route: May 4th, 1999.

420.429. Prohibit Oil Drilling City Limits: May 4th, 1999.

420.430. Moratorium – Adult Entertainment: July 1st, 1999.

420.431. Amend Municipal Code, Water, Sewer, Trash: July 1st, 1999.

420.432. Feedlot Bond: ($585,000). July 20th, 1999. (December 31st, 1999).

420.433. Sexually Oriented Business Licensing: November 1999.

420.434. Change Municipal Code – Sewer Department: December 2nd, 1999.

420.435. Change Municipal Code – Trash Rates: December 2nd, 1999.

420.436. Change Mayor & Trustee Salary: December 2nd, 1999.

420.437. Budget Year 2000: December 2nd, 1999.

420.438. Feedlot Bond; $620,000: December 2nd, 1999. (December 12th, 2012)

420.439. Amend Curfew: March 7th, 2000.

420.440. Blair Property Exchange: March 7th, 2000.

420.441. Lease Agreement with Limon Heritage Society: April 6th, 2000.

420.442. Establishing Town of Limon Activity Enterprise: April 6th, 2000. Repealed by Ordinance No. 482.

420.443. Establishing Town of Limon Sewer Activity Enterprise: April 6th, 2000. Repealed by Ordinance No. 482.

420.444. Formally Establishing Recreation Facilities Enterprise: April 6th, 2000.

420.445. Formally Establishing Airport Fuel Activity Enterprise: April 6th, 2000.

420.446. Formally Establishing Ambulance Activity Enterprise: April 6th, 2000.

420.447. Grazing Lease with Wayne Shade: April 6th, 2000.

420.448. Water Loan between Colorado Water Resources and Town: Bond 2000; $1,440,808.84, Refunding Ordinance No. 363: May 4th, 2000.

420.449. Amend Ordinance No. 376, Require Residences to Have Front Door Facing Street: May 9th, 2000.

420.450. Amend Ordinance No. 376, Notice of Public Hearing Requirements: May 9th, 2000.

420.451. Amend Ordinance No. 376, Public Notice Requirements: May 9th, 2000.

420.452. Amend Ordinance No. 376, Zoning Map: May 9th, 2000.

420.453. Amend Ordinance No. 376, Zoning Map: May 9th, 2000.

420.454. Amend Ordinance No. 376, Zoning Map: May 9th, 2000.

420.455. Amend Ordinance No. 376, Public Notice Requirement: July 6th, 2000.

420.456. Amend Municipal Code – Town Dump Regulations: September 7th, 2000.

420.457. Amend Ordinance No. 376, Defining Sexually Oriented Business: July 6th, 2000.

420.458. Contract to Sell Real Estate with Robert J. & Ellen E. Safranek: November 2nd, 2000.

420.459. Amend Ordinance No. 376, Allow Fire Station as Conditional Use: December 7th, 2000.

420.460. Amend Ordinance No. 376, Zoning Map: December 7th, 2000.

420.461. Budget Year 2001: December 7th, 2000.

420.462. Water Activity Enterprise: December 26th, 2000.

420.463. Adopt Uniform Building Code: May 3rd, 2001. Repealed by Ordinance No. 521.

420.464. Manufactured Housing: August 2nd, 2001.

420.465. Big Sandy Addition Annexation: September 6th, 2001.

420.466. Big Sandy No. 2 Addition Annexation: October 4th, 2001.

420.467. Budget Year 2002: December 6th, 2001.

420.468. Water Bonds Series 2001 Refunding Ordinance 377: December 6th, 2001.

420.469. Election for Special Assessment Bonds: February 4th, 2002.

420.470. Lease Agreement with Fort Morgan Community College: February 4th, 2002.

420.471. Amend Ordinance No. 135, Water Department Service Connection Fees: May 2nd, 2002.

420.472. Amend Ordinance No. 135, Crawlspaces in Residential Construction: June 6th, 2002.

420.473. Dangerous Dogs: June 6th, 2002. Repealed by Ordinance No. 520.

420.474. Fireworks: June 27th, 2002.

420.475. Street, Curb, Gutter Improvements: Special Improvement District No. 1: September 5th, 2002.

420.476. Noxious Weeds: July 11th, 2002.

420.477. Amend Code/Duties of Town Administrator, Town Clerk/Treasurer and Town Attorney: July 11th, 2002.

420.478. Prohibit Tobacco Products by Minor: November 7th, 2002.

420.479. Amend Land Development Code – Prohibit Manufactured Housing in Commercial & Industrial Districts Other Than Temporary Use: November 7th, 2002.

420.480. Amend Code/Non-Domestic Pretreatment: March 6th, 2003.

420.481. Budget Year 2003: December 5th, 2002.

420.482. Utility Activity Enterprise: Repealed Ordinance No. 442 & 443. December 5th, 2002.

420.483. Amend Ordinance No. 376, Development Requirements for Residential Zone Districts, Street Width Requirements: May 1st, 2003.

420.484. Vacate Unused Dedicated Streets and Roadways: July 3rd, 2003.

420.485. Model Traffic Code: September 4th, 2003.

420.486. Amend Code/Non-Domestic Pretreatment: October 9th, 2003.

420.487. Budget Year 2004: December 4th, 2003.

420.488. Amend Code/Pershing Memorial Cemetery: December 29th, 2003.

420.489. Special Improvement District 2004 – 1 Election: February 5th, 2004.

420.490. Lease Agreement with Gerald Shalosky at Airport: May 6th, 2004.

420.491. Water Revenue Improvement Bonds; $2,600,000: May 6th, 2004. (2044).

420.492. Creation of Special Improvement District 2004 – 1: July 1st, 2004.

420.493. Fire Station Lease Purchase: September 2nd, 2004.

420.494. Ballot Question Limon Special Improvement District 2004 – 1: November 16th, 2004.

420.495. Budget Year 2005: December 2nd, 2004.

420.496. Bonds – Limon Special Improvement District 2004 – 1: Bond 2004 – 1 ($200,000). December 2nd, 2004. (July 1st, 2024).

420.497. Amend Land Development Code – Sexually Oriented Business: January 6th, 2005.

420.498. Repeal Ordinance 433; Add Chapter 760: January 6th, 2005.

420.499. Amend Land Development Code Accessory Buildings: January 6th, 2005.

420.500. Contracts, Purchases in Ordinance No. 376: March 3rd, 2005.

420.501. Grazing Lease: May 5th, 2005.

420.502. Carla's Cluster Care Economic Development Agreement: July 7th, 2005.

420.503. Right of Way Ordinance: July 7th, 2005.

420.504. Special District Ballot Question 2005 – 2A ($185,000): August 4th, 2005.

420.505. Special District Ballot Question 2005 – 2B ($38,000): August 4th, 2005.

420.506. Special District Ballot Question 2005 – 2C ($252,000): August 4th, 2005.

420.507. Real Property Sale to Michael & Trudy O'Dwyer: August 4th, 2005.

420.508. Real Property Sale to Geneva Rogers: August 4th, 2005.

420.509. Special District 2005 – 2A, 2—5 – 2B, 2005 – 2C: November 17th, 2005.

420.510. Special District 2005 – 2A, 2—5 – 2B, 2005 – 2C: November 17th, 2005.

420.511. Budget Year 2006: December 6th, 2005.

420.512. Bonds for Special Districts: Bond 2005 – 2A; $185,000, Bond 2005 – 2B; $38,000, Bond 2005 – 2C; $252,000, Bond Total of $475,000; not to exceed $415,000. December 6th, 2005. (July 1st, 2025).

420.513. Amend Section **636** – Traffic Regulation: February 6th, 2006.

420.514. Amend Section **155** – Non-Domestic Pre-treatment: March 6th, 2006.

420.515. Lease for Library with Morgan Community College: June 8th, 2006.

420.516. Amend Ordinance No. 376, Pertaining to Business Signs: September 7th, 2006.

420.517. Budget for 2007: December 7th, 2006.

420.518. Airport Grazing Lease with Tim Daum: February 1st, 2007.

420.519. Aquila Franchise: repealed and replaced Ordinance No. 318, April 5th, 2007.

420.520. Amend Section **531** – Pertaining to Dogs: repealed and replaced Ordinance 473, September 6th, 2007.

420.520. **** Duplicate Number **** Service Support with Medtronic: June 7th, 2007.

420.521. Amend Section **513** – Uniform Building Code: January 3rd, 2008. Repealed Ordinance No. 463.

420.522. Budget Year 2008: December 6th, 2007.

420.523. Bulk Water Sales: March 6th, 2008.

420.524. Morgan Community College Lease: June 5th, 2008.

420.525. Model Traffic Code: October 2nd, 2008.

420.526. Budget Year 2009: December 4th, 2008.

420.527. Water, Sewer Trash Rates: December 4th, 2008.

420.528. Town Officers: February 5th, 2009.

420.529. Amend Land Development Code – Mobile Home Parks: August 6th, 2009.

420.530. Amend Land Development Code – Mobile Home Zone Uses: August 6th, 2009.

420.531. Multi-Year Service Support Agreement with Medtronic dba Physio Controls: August 6th, 2009.

420.532. Amend Section **134**, Utility Service Billing: November 5th, 2009. August 6th, 2009.

420.533. Temporary Moratorium – Medical Marijuana: November 5th, 2009 & expires 180 days later.

420.534. Budget Year 2010: December 3rd, 2009.

420.535. Utility Rate Increase: December 3rd, 2009.

420.536. Temporary Moratorium – Medical Marijuana Grow Facilities: February 4th, 2010.

420.537. Temporary Moratorium Extension – Medical Marijuana; see Ordinance No. 533 & 536: April 1st, 2010.

420.538. Amend Ordinance No. 371 by Changing Titles for Town Administrator and Public Works Director to Town Manager: May 6th, 2010.

420.539. Morgan Community College Lease Agreement; Fourth Amendment: June 3rd, 2010.

420.540. Town Owned Land (by Airport) Grazing Lease: June 3rd, 2010.

500 - PUBLIC HEALTH

510 - General Administration

HISTORY: 1958 Municipal Code

510.1. The Town Board has full power to take all measures necessary to promote the health and cleanliness, to abate all nuisances of every description on public and private property; to prevent the introduction of spreading within the Town of Limon malignant, contagious, and infectious diseases, and to remove, detain, isolate or quarantine any person or persons attacked by or having any such disease, or have been exposed thereto; to promulgate such rules and regulations as may be necessary to perform its functions.

510.1.1. The Town Board in addition to enforcing the above mentioned regulations has the authority to enforce such rules of the Health Department of the State of Colorado as are applicable to particular situations.

510.2. Interference with Health Officials

It shall be unlawful for any person or persons to molest, hinder, interfere with or in any manner prevent any individual designated by the Town Board or any official of the Town of Limon from performing any duty imposed upon him by any rule of the State of Colorado, or Town Board of the Town of Limon.

511 - Licensing and Governance of Institutions

511.1. Classification of Institutions.

All institutions, homes, houses, establishments, and other institutions and places whatsoever erected, constructed, maintained, conducted, or operated for the purpose of receiving, sheltering, caring for, housing, or giving a home to, or making a home for, persons of any particular kind, class, or description, whether such kind, class or description shall relate to, be determined by, is based upon, infancy, age, non-age, sex, race, color, occupation, trade, profession, religion, or financial, physical, or mental condition, shall come within the provisions of section **500**, regardless of the fact whether any fee, price, stipend, or charge be made for admission into or the keeping, maintaining, caring for, housing, giving a home to, or making a home for, any person or persons so received therein or not.

511.2. Consent of Town Board Required for Opening Institution.

No institution of any kind, nature, or character whatsoever described in or covered by the provisions of section **500** shall hereafter be constructed, opened, operated, maintained or conducted, without the consent of the Town Board first had and obtained.

512 - Care of Children for Hire

(Deleted in its entirety by Ordinance No. 380 on October 6, 1994)

513 - Uniform Building Code

(HISTORY: Added by Ordinance No. 344, June 6, 1990; repealed and replaced by Ordinance No. 367, February 4, 1993; Amended on August 1, 1966 by Ordinance No. 403; Amended on January 2, 1997 by Ordinance No. 411; Amended May 3, 2001 by Ordinance No. 463; Amended January 3, 2008 by Ordinance No. 521.)

513.1. Adoption of the International Building Code, 2006 Edition.

513.1.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Building Code of the Town of Limon, including Appendix G – Flood-Resistant Construction and Appendix J – Grading, published by the International Code Conference, 4051 West Flossmoor Road, Country Club Hills, IL, 60478-5771 to have the same force and effect as if set forth herein in every particular.

513.1.2. The purpose of this code is to provide the minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; providing for the issuance of permits and collection of fees in the Town of Limon.

513.2. Adoption of the International Residential Code, 2006 Edition.

513.2.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Residential Building Code of the Town of Limon, including Appendix H – Patio Covers, published by the International Code Conference, 4051 West Flossmoor Road, Country Club Hills, IL, 60478-5771 to have the same force and effect as if set forth herein in every particular.

513.2.2. The purpose of this code is to provide the minimum regulations regulating the construction, alternation, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress and providing for the issuance of permits and collection of fees in the Town of Limon.

513.3. Adoption of the International Mechanical Code, 2006 Edition.

513.3.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Mechanical Code of the Town of Limon, by reference thereto, the Uniform Mechanical Code, 1997 Edition, published by the International Code Conference, 4051 West Flossmoor Road, Country Club Hills, IL, 60478-5771, to have the same force and effect as if set forth herein in every particular.

513.3.2. The purpose of this code is to safeguard the life and limb, health, property and public welfare of the residents of the Town of Limon by providing minimum standards regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the Town of Limon, Colorado.

513.4. Adoption of the International Plumbing Code, 2006 Edition.

513.4.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Plumbing Code of the Town of Limon, by reference thereto, the International Plumbing Code, 2006 Edition, published by the International Code Conference, 4051 West Flossmoor Road, Country Club Hills, IL, 60478-5771, to have the same force and effect as if set forth herein in every particular.

513.4.2. The purpose of this code is to protect the health and welfare of the residents of the Town of Limon by providing standards regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the Town of Limon, Colorado.

513.5. Adoption of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition.

513.5.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Abatement of Dangerous Buildings Code of the Town of Limon, by reference thereto, the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, published by the International Conference of Building Officials, 5360 S. Workman Mill Road, Whittier, California, 90601, to have the same force and effect as if set forth herein in every particular.

513.5.2. The purpose of this code is to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Uniform Building Code or otherwise available at law, whereby buildings or structures in the Town of Limon which may, from any cause, endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished. The subject matter of this code includes definitions and procedures for enforcement, notice, appeal, hearing, performance of work or repair, or demolition and other matters applying to dangerous buildings now in existence or which may hereafter exist in the Town of Limon.

513.6. Adoption of the International Fire Code, 2006 Edition.

513.6.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Fire Code of the Town of Limon, by reference thereto, the International Fire Code, 2006 Edition, published by the International Code Conference, 4051 West Flossmoor Road, Country Club Hills, IL, 60478-5771, to have the same force and effect as if set forth herein in every particular.

513.6.2. The purpose of this code is to govern the maintenance of buildings and premises and safeguard life, health, property and the public welfare by regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the Town of Limon, Colorado.

513.7. Adoption of the International Fuel Gas Code, 2006 Edition.

513.7.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Fuel Code of the Town of Limon, by reference thereto, the International Fuel Gas Code, 2006 Edition, published by the International Code Conference, 4051 West Flossmoor Road, Country Club Hills, IL, 60478-5771, to have the same force and effect as if set forth herein in every particular.

153.7.2. The purpose of this code is to govern fuel gas systems and gas-fired appliances in the Town of Limon, Colorado.

513.8. Adoption of the International Energy Conservation Code, 2006 Edition.

513.8.1. Pursuant to Colorado Revised Statutes 31-16-201, et. seq., as amended, there is hereby adopted as the Energy Conservation Code of the Town of Limon, by reference thereto, the International Energy Conservation Code, 2006 Edition, published by the International Code Conference, 4051 West Flossmoor Road, Country Club Hills, IL, 60478-5771, to have the same force and effect as if set forth herein in every particular.

513.8.2. The purpose of this code is to safeguard life, health, property and the public welfare by regulating energy efficient building envelopes and installation of energy efficient mechanical lighting and power systems in the Town of Limon, Colorado.

513.9. Adoption of the National Electrical Code, 2005 Edition.

513.9.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Electrical Code of the Town of Limon, by reference thereto, the National Electrical Code, 2005 Edition, published by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts, 02269, to have the same force and effect as if set forth herein in every particular.

513.9.2. The purpose of this code is to govern the practical safeguarding of persons and property from hazards arising from the use of electricity such that compliance with the code and proper maintenance will result in an installation essentially free from hazard. The subject matter of this code includes regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems in the Town of Limon, Colorado.

513.10. Code Copies.

At least one (1) copy of each code adopted herein by reference, all certified to be true copies by the Mayor and the Clerk of the Town of Limon, have been filed in the office of the clerk at least 15 days preceding the hearing hereon and shall be kept there for public inspection while this code is in force. Said copies may be inspected by interested persons between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The codes as finally adopted shall be available for sale to the public through the Office of the Town Clerk at a moderate price. After the adoption of this ordinance, and the codes herein stated by reference, the copy of said codes may be kept in the Office of the Building Inspector instead of in the Office of the Town Clerk.

513.11. Penalties and/or Amendments.

513.11.1. The following section as contained in the International Building Code, 2006 Edition, is hereby amended and herewith set forth in full and adopted, as follows:

513.11.1.1. Section 108.5 Related Fees. When Section 106 requires submittal documents, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65 percent of the building permit fee as shown in Table 1A for residential construction or when outside consultants are used for commercial construction the plan review fee shall be the actual cost of review as provided in Table 1A.

513.11.1.2. Table 1A – Building Permit Fees.

TOTAL VALUATION	Fee
$1.00 to $500.00	$24.00
$501.00 to $2,000.00	$24.00 for the first $500.00 plus $3.00 for each additional $100.00 or fraction thereof, to and including $2,000.00
$2,001.00 to $40,000.00	$69.00 for the first $2,000.00 plus $11.00 for each additional $1,000.00 or fraction thereof, to and including $40,000.00
$40,001.00 to $100,000.00	$487.00 for the first $40,000.00 plus $9.00 for each additional $1,000.00 or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$1,027 for the first $100,000.00 plus $7 for each additional $1,000.00 or fraction thereof, to and including $500,000.00
$500,001 to $1,000,000.00	$3,827 for the first $500,000.00 plus $5 for each additional $1,000.00 or fraction thereof, to

	and including $1,000,000.00
$1,000,001 to $5,000,000	$6,327 for the first $1,000,000.00 plus $3 for each additional $1,000.00 or fraction thereof, to and including $5,000,000.00
$5,000,001 and over	$18,327 for the first $5,000,000.00; plus $1 for each additional $1,000.00 or fraction thereof
Other Inspections and Fees 1. Inspections outside normal business hours . . . $47.00 per hour* (minimum charge-two hours) 2. Reinspection fees . . . . . $47.00 per hour* 3. Inspections for which no fee was specifically Indicated . . . . . .$47.00 per hour* (minimum charge – one-half hour) 4. Additional plan review required by changes, additions or revisions to plans . . . . . .$30.00 per hour* (Minimum charge – one-half hour) 5. For use of outside consultants for plan checking and inspections, or both . . . . . .Actual Costs	

*Or the total hourly cost of the jurisdiction, whatever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

513.11.2. The following section as contained in the International Building Code, 2006 Edition, is hereby amended and herewith set forth in full and adopted, as follows:

513.11.2.1. Section 113.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, of a permit or certificate issued under the provisions of this code shall be subject to penalties as described by law and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

513.11.3. The following section as contained in the International Residential Code, 2006 Edition, is hereby amended and herewith set forth in full and adopted, as follows:

513.11.3.1. Section R113.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, of a permit or certificate issued under the provisions of this code shall be subject to penalties as described by law and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

513.11.4. The following section as contained in the International Mechanical Code, 2006 Edition, is hereby amended and herewith set forth in full and adopted, as follows:

513.11.4.1. Section 108.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who shall erect, construct, alter or repair mechanical work in violation of the approved construction documents or directive of the building official, of a permit or certificate issued under the provisions of this code shall be subject to penalties as described by law and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

513.11.5. The following sections as contained in the International Plumbing Code, 2006 Edition, are hereby amended and herewith set forth in full and adopted, as follows:

513.11.5.1. Section 103.2 Administrative Authority. This *Code* is intended to be suitable for mandatory application by governmental bodies that exercise legal jurisdiction over plumbing installations and for use by insurance inspectors. The Authority having jurisdiction for the enforcement of this *Code* shall be the Colorado State Plumbing Board pursuant to C.R.S. 12-58-104. The authority having jurisdiction for enforcement of the code will have the responsibility for making interpretations of the rules, for deciding on the approval of equipment and materials, and for granting special permission contemplated in a number of the rules.

513.11.5.2. The authority having jurisdiction may waive specific requirements in this *Code* or permit alternate methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

513.11.5.3. This *Code* may require new products, constructions, or materials that may not yet be available at the time the *Code* is adopted. In such event, the authority having jurisdiction may permit the use of the products, constructions, or materials that comply with the most recent previous edition of this *Code* adopted by the jurisdiction.

513.11.5.4. Section 108.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who shall erect, construct, alter or repair mechanical work in violation of the approved construction documents or directive of the building official, of a permit or certificate issued under the provisions of this code shall be subject to penalties as described by law and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

513.11.6. The following section as contained in the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, is hereby amended and herewith set forth in full and adopted, as follows:

513.11.6.1. Section 203. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure, or cause or permit the same to be done in violation of this code.

513.11.6.2. Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of the provisions of this code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

513.11.7. The following sections as contained in the International Fire Code, 2006 Edition, are hereby added and herewith set forth in full and adopted, as follows:

513.11.7.1. Section 104.1.1 Fire Suppression Systems. The Colorado Division of Fire Safety, pursuant to C.R.S. 24-33.5-1202 through 24-33.5-1209, is authorized to administer and enforce this code in reference to requirements for installation, inspection, and maintenance of fire suppression systems.

513.11.8. The following sections as contained in the International Fire Code, 2006 Edition, are hereby amended and herewith set forth in full and adopted, as follows:

513.11.8.1. Section 109.3 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, of a permit or certificate issued under the provisions of this code shall be subject to penalties as described by law and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

513.11.9. The following sections as contained in the International Fuel Gas Code, 2006 Edition, are hereby amended and herewith set forth in full and adopted, as follows:

513.11.9.1. Section 108.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, of a permit or certificate issued under the provisions of this code shall be subject to penalties as described by law and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

513.11.10. The following section as contained in the National Electrical Code, 2005 Edition, is hereby amended and herewith set forth in full and adopted, as follows:

513.11.10.1. Section 90.4. Enforcement. This *Code* is intended to be suitable for mandatory application by governmental bodies that exercise legal jurisdiction over electrical installations and for use by insurance inspectors. The Authority having jurisdiction for the enforcement of this *Code* shall be the Colorado State Electrical Board pursuant to C.R.S. 12-23-100.2. The authority having jurisdiction for enforcement of the code will have the responsibility for making interpretations of the rules, for deciding on the approval of equipment and materials, and for granting special permission contemplated in a number of the rules.

513.11.10.2. The authority having jurisdiction may waive specific requirements in this *Code* or permit alternate methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

513.11.10.3. This *Code* may require new products, constructions, or materials that may not yet be available at the time the *Code* is adopted. In such event, the authority having jurisdiction may permit the use of the products, constructions, or materials that comply with the most recent previous edition of this *Code* adopted by the jurisdiction.

513.11.11. The following sections as contained in the International Energy Conservation Code, 2006 Edition, are hereby amended and herewith set forth in full and adopted, as follows:

513.11.11.1. Section 108.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, of a permit or certificate issued under the provisions of this code shall be subject to penalties as described by law and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

513.12. Wind Powered Electricity–Generating Equipment.

513.12.1. Definitions. The following definitions shall apply in the interpretation and enforcement of this code:

513.12.1.1. Town Manager: the Town Manager of the Town of Limon, Colorado, or any of his authorized representatives or assistants.

(Amended on May 6th, 2010 by Ordinance No. 538)

513.12.1.2. Wind Powered Electricity Generating Equipment (as used in this code): any portion of the equipment used for generating electricity by means of and through the use of wind.

513.12.1.3. Mast: that portion of an outside wind-powered electricity-generating system to which the system is attached, and the supporter extension required to elevate the system to a height deemed necessary for adequate operation.

513.12.1.4. Height: the overall vertical length of the system above the ground, or, if such system be located on a building, then, above that part of the level of such building upon which the system rests.

513.12.1.5. Person: any person, firm, partnership, association, corporation, company or organization of any kind.

513.12.2. Permit Required.

It shall be unlawful for any person to install, either as owner or as agent, servant or employee of the owner, or as an independent contractor for the owner, or otherwise, any wind-powered electricity-generating system, any additions to, or substitutions for, said system unless and until an inspection permit shall have first been obtained from the Town Manager.

513.12.3. Fees.

513.12.3.1. An inspection fee of $25.00 shall be paid for each permit issued under Section **513.12.2.**

513.12.3.2. A re-inspection fee of Twelve Dollars and Fifty Cents ($12.50) shall be paid for each trip when extra inspections are necessary due to any one of the following reasons: (1) wrong address; (2) condemned work resulting from faulty construction; (3) repairs or corrections not made when inspection is called; (4) work not ready for inspection when called.

513.12.4. Application Data.

Application for permits shall be made upon a blank form provided by the Town Manager, and shall contain or have attached thereto the following information:

513.12.4.1. Name, address and telephone number of the owner.

513.12.4.2. The legal description of the premises on which the installation is to be made.

513.12.4.3. Whether it is a new installation, repair or maintenance work.

513.12.4.4. A blueprint or ink drawing of the plans and specifications and method of installation and attachment to the building or in the ground.

513.12.4.5. Name of the person making the installation.

513.12.4.6. Such other information as the Town Manager shall require to show full compliance with this and all other laws, codes and ordinances of the Town.

513.12.5. Town Manager - Duties, Rights and Powers.

513.12.5.1. It shall be the duty of the Town Manager and his authorized assistants to inspect all wind-powered electricity-generating systems to ascertain if the work has been done in a workmanlike manner and to investigate all complaints from the general public pertaining to said system installations.

513.12.5.2. The Town Manager and his assistants are hereby empowered to inspect or re-inspect any wiring, equipment or apparatus conducting or using electric current generated by any wind-powered electricity-generating system in the Town, and if conductors, equipment or apparatus are found to be unsafe to life or property, or are not in conformity with the provisions of this code, the Town Manager shall notify the person owning or operating the hazardous wiring or equipment to correct the condition within a forty-eight hour period or within the time the Town Manager specifies. Failure to correct violations within the specified time shall constitute a violation of this code.

513.12.6. Unlawful to Interfere with Town Manager.

It shall be unlawful for any person to hinder or interfere with the Town Manager or his authorized representatives in the discharge of their duties under the provisions of this code.

513.12.7. Notice for Inspection.

The person to whom a permit has been granted for the installation of a wind-powered electricity-generating system shall immediately notify the Town Manager when the work covered by the permit has been completed and is ready for final inspection. Upon such notice, the Town Manager or his authorized representatives shall promptly inspect and approve the installation if the work complies in all respects with the provisions of this ordinance and the permit, and shall disapprove said installation if it fails to comply, stating in writing the reasons for disapproval and specify a time within which said defects must be corrected. A re-inspection shall be made after notice to the Town Manager that the defects have been corrected.

513.12.8. Bond Required.

513.12.8.1. Every person engaged in the business of making wind-powered electricity-generating system installations, repairs and doing maintenance work on same shall annually file with the Town Manager a good and sufficient bond in the sum of Three Hundred Thousand Dollars ($300,000.00), executed by a bonding or surety company authorized to do business in the State of Colorado and approved by the Town Attorney. Said bond shall be conditioned upon the faithful observance of all laws, codes and ordinances of the Town of Limon and shall indemnify, save and keep harmless the Town from any and all damages, judgments, costs or expenses which the said Town may incur or suffer by reason of the granting of a permit to install, repair or maintain said system or any services thereto. Said bond shall run to the Town of Limon, Colorado for the use and benefit of any person who may suffer injuries or property damage by reason of the permit granted hereunder. The maintenance of said bond in full force and effect shall be a prerequisite to the issuance of any permit required under the provisions of this ordinance. A liability insurance policy issued by an insurance company authorized to do business in the State of Colorado which conforms to the above requirements may be permitted in lieu of a bond.

513.12.8.2. This provision shall not apply to personal installations, repairs or maintenance of said system by an owner or occupant, provided, however, that said owner or occupant gives sufficient proof to the Town Manager that he is qualified to perform the work in conformity with the provisions of this code, and provided, further, that said owner or occupant files with his application for a permit an affidavit stating that he will make the installation, repair or maintenance on his own premises only, and that he will do all the necessary work personally and without the assistance of any other person.

513.12.9. Technical Requirements.

All wind-powered electricity-generating system installations from and after the effective date of this code shall be made in accordance with the following rules and regulations:

513.12.9.1. Masts and associated equipment shall be of noncombustible and corrosive-resistant material.

513.12.9.2. Every mast and system installed on a roof shall be mounted on its own platform or plate covering two or more rafters of the roof and shall be securely anchored with guy wires.

513.12.9.3. Masts and systems shall not be fastened directly to the roof or supported by combustible members or materials.

513.12.9.4. All outdoor equipment shall be of an approved type, and shall not exceed the maximum height of ten (10) feet above a roof support or thirty (30) feet above a ground support.

513.12.9.5. Every mast and associated system must be adequately grounded for protection against a direct stroke of lightening, with an adequate ground wire.

513.12.9.6. In no case shall a system be installed nearer to the street or sidewalk than the height of the associated wind system plus ten (10) feet, and no wire, cables or guy wires shall cross or extend over any part of any street or sidewalk.

513.12.9.7. Whenever it is necessary to install a mast and associated system near power lines, or where damage would be caused by its falling, a separate safety wire must be attached to the cross-arm of the system, and secured in a direction away from the hazard.

513.12.9.8. Anchor points for systems, masts and guy wires must be lead anchor screws or lead expansion shields drilled into solid block, concrete or other noncombustible construction.

513.12.9.9. Transmission lines must be kept at least twenty-four (24) inches clear of telephone or light wires.

513.12.9.10. Rawl plugs are approved only for supporting transmission lines.

513.12.9.11. Stand-off support insulators must be used at least every ten (10) feet running on the transmission line.

513.12.9.12. Lightening arrestors shall be approved as safe by the Underwriter's Laboratories, Inc., and both sides of the line must be adequately protected with proper arrestors or neon lamps to remove static charges accumulated on the line.

513.12.9.13. Masts and systems shall be designed and installed to withstand a wind pressure of 25 pounds per square foot and in no case shall guy wires be less than 3/22", 5-strand cable or equivalent, galvanized. Rawl plugs shall not be used for guy wires or for mounting brackets.

513.12.9.14. Ground straps for grounding masts and attaching arrestors to water pipe shall be approved ground fitting.

513.12.9.15. The miscellaneous hardware, such as brackets, turnbuckles, thimbles, clips, and similar type equipment subject to rust or corrosion, shall be protected with a zinc or cadmium coating by either galvanizing or shepardizing process after forming. These finishes are selected to guard against corrosion due to stack gases and other deposits and to protect the elements against electrolytic action due to the use of adjoining dissimilar metals.

513.12.9.16. Turnbuckles shall be protected against turning by threading the guy wires through the turnbuckle.

513.12.9.17. Ground wires shall be the type approved by the National Electric Code of 1999 as adopted by reference by this code of the Town of Limon, Colorado, for grounding masts and lightening arrestors, and shall be installed in a mechanical manner with as few bends as possible, maintaining a clearance of at least two (2) inches from combustible material.

513.12.9.18. All other provisions of the National Electric Code of 1999, as adopted by reference by this code, shall apply to the installation, repair and maintenance of any wind-powered electricity-generating system in the Town of Limon, Colorado.

513.12.10. Materials to be Approved Type.

No electrical materials, devices or equipment designed for attachment to or installation on any electrical circuit or system in the Town of Limon shall be installed or used for use in the Town of Limon unless they are in conformity with the approved methods of construction for safety to life and property, and unless the electrical materials, devices or equipment conforms with the standards of the National Electric Code of 1999, current as of the time of installation. Original manufacturer's equipment shall not be altered unless such alterations are specifically recommended by the manufacturer.

513.12.11. Maker's Name, Etc., Required on Equipment.

The maker's name, trademark, or other identification symbol shall be placed on all electrical devices or equipment that use 115 volts or more which are sold, offered for sale or use or used in the town of Limon, Colorado. These markings and others such as voltage, amperage, wattage, and power-factor or appropriate ratings described in the National Electric Code of 1999, shall be required, and are necessary to determine the character of the material, device or equipment and the use for which it is intended.

513.12.12. Repairs without Permit.

Notwithstanding anything herein to the contrary, repairs to the system may be made without the necessity of a permit, provided, however, that a prompt report thereof is made to the Town Manager showing the extent thereof. Should an investigation of said repairs by the Town Manager disclose defects, the same shall be pointed out and corrected as required by Section **513.5.2.**

513.12.13. Codes Supplemental to this Code.

The National Electric Code of 1999, as the same may be amended, before the adoption of this code, is hereby adopted and approved as a part of this code as a minimum standard. The provisions of this code shall also be deemed as supplemental to the Electrical and Building Codes of the Town of Limon, Colorado, and any other pertinent law or codes of the Town, and all work shall conform to these requirements.

513.12.14. Authorizing Additional Rules.

In order to take advantage of progress and change in the industry, the Town Manager may consult with members of the industry and other qualified persons and may put into effect any reasonable rules and regulations not in conflict with the provisions of this code.

513.12.15. Penalties for Violations.

Any person violating any of the provisions of this code shall, upon conviction be subject to a fine not to

exceed Five Hundred Dollars ($500.00). Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

(Amended January 2, 1997 by Ordinance No. 411; Amended May 3, 2001 by Ordinance No. 463; Amended May 3, 2001 by Ordinance No. 463; Amended January 3, 2008 by Ordinance No. 521.)

515 – Manufactured Home Installation Code

(HISTORY: Added August 2, 2002 by Ordinance No. 464)

515.1. Scope.

Every manufactured home installed after the effective date of this code that is installed in a temporary or permanent location and is designed and commonly used for occupancy by persons for residential purposes, must display an insignia issued by the Colorado Division of Housing certifying that the unit is installed in compliance with the standards adopted in Section **515.6.**

515.2. Definitions.

515.2.1. Certificate of Occupancy: both a certificate issued by the Division of Housing for the installation of a manufactured home that is in compliance with the manufactured home installation requirements of the Division and a certificate issued by the Town of Limon that indicates the installation has met the requirements of the Land Development Code of the Town of Limon.

515.2.2. Certified Inspector: any employee of the Town of Limon designated by the Town Manager who has been approved by the Division to perform or enforce installation inspections.

515.2.3. Certified Installer: an installer of manufactured home who is registered with the Division of Housing, has installed at least five manufactured homes in compliance with the manufacturer's instructions or standards created by the Division of Housing and adopted by the Town of Limon by this code, and is currently approved as a certified installer by the Division.

515.2.4. Division: the Colorado Division of Housing.

515.2.5. Insignia: a certificate issued by the Division of Housing to indicate compliance with the manufactured home installation regulations established by the State Housing Board.

515.2.6. Installation: the placement of a manufactured home on a permanent or temporary foundation system. Such term includes, without limitation, supporting, blocking, leveling, securing or anchoring such home and connecting multiple or expandable sections of such home.

515.2.7. Installer: any person who performs the installation of a manufactured home.

515.2.8. Installer's Certificate: a notice when posted on the site of an installation that the installer has made application to install a manufactured home and has received authorization to install. The installer's certificate shall be referred to as the installation certificate.

515.2.9. Manufactured Home: any pre-constructed building unit or combination of pre-constructed 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 the occupancy by persons for residential purposes, in either temporary or permanent locations and which unit or units are not licenses as a vehicle. Manufactured home includes mobile homes, manufactured homes built to HUD standards, and factory-built units built to the building code standards established by the Division.

515.2.10. Manufacturer: any person who constructs or assembles a manufactured home in a factory.

515.2.11. Owner: the owner of a manufactured home or property.

515.2.12. Participating Jurisdiction: the Town of Limon which has agreed to administer and inspect manufactured housing installations within the legal boundaries of its jurisdiction.

515.2.13. Registered Installer: an installer who has registered with the Division and is in compliance with the manufactured home installation program requirements.

515.3. Installers of Manufactured Homes – Registration.

515.3.1. C.R.S. 24-32-3103 requires any installer in this state shall first register with the Division.

515.3.2. The installer shall be responsible for the proper and competent performance of all employees working under his or her supervision.

515.3.3. Temporary installation for the purpose of a home display which will be relocated to another location prior to use as a residence is exempted from this code.

515.3.4. Installation by Owners.

515.3.4.1. A person who owns the manufactured home or the real property where the home is to be installed, is not required to register as an installer with the Division, but shall comply with all provisions of this ordinance other than registration provisions.

515.3.4.2. A person who installs more than one manufactured home in a twelve-month period either owned or on real property owned by such person must register as an installer and shall comply with all registration provisions.

515.3.5. Registered Installers. In order to be registered as a manufactured home installer, pursuant to C.R.S. 24-32-3103(4), the Division requires:

515.3.5.1. The applicant shall be at least eighteen (18) years of age.

515.3.5.2. An Application for registration or certification as a manufactured home installer by the Division, whether initial or renewal, shall be submitted on a form provided by the Division and shall be notarized and verified by a declaration signed under penalty of perjury by the applicant. The Division shall make the application and declaration available to the public.

515.3.5.3. At the same time that an application for registration is filed with the Division, the following must be submitted:

515.3.5.3.1. Proof in the form of a copy of a valid driver's license or certificate of birth that the applicant is at least eighteen (18) years of age; and

515.3.5.3.2. Furnish written evidence of a minimum six (6) months of installation experience under direct supervision of a registered or certified installer; or equivalent training experience acceptable to the Division; or complete a home study course and pass an installation program exam; and

515.3.5.3.3. Carry and provide proof of a contractor's liability insurance in an amount not less than one hundred thousand dollars ($100,000.00). The insurance policy shall contain a provision for the immediate notification of the Division upon cancellation; and

515.3.5.3.4. A letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in the amount of ten thousand dollars ($10,000.00) for the performance of installations pursuant to the manufacturer's instructions or standard promulgated by the Division and adopted by reference in Section **515.6.**. A provision shall be included for the immediate notification of the Division upon cancellation.

515.3.5.4. Persons employed by a registered or certified installer, as well as persons employed by a legal or commercial entity employing a registered or certified installer, when performing installation functions under the direct on-site supervision of such installers are not required to register.

515.3.5.4.1. The registered installer shall be responsible for supervising all employees and for the proper and competent performance of all employees working under his or her supervision.

515.3.5.5. A registration issued by the Division, pursuant to C.R.S. 24-32-3103, shall be valid for three years from the date of issuance and shall not be transferred nor assigned to another person.

515.3.5.5.1. If any of the application information for the registered installer changes after the issuance of a registration, the registered installer shall notify the Division in writing within thirty (30) days from the date of the change.

515.3.5.5.2. The Division may suspend, revoke, or deny renewal of a registration if the registered installer fails to notify the Division of any change in the application.

515.3.5.6. Any registered or certified installer seeking to renew registration with the Division shall, at the time of applying for renewal, provide proof of liability insurance and letter of credit, certificate of deposit, or surety bond.

515.4. Certified Installers.

515.4.1. Any registered installer who has performed five installations that have passed inspection by the Division or certified inspectors may apply to the Division for certification. The Division shall not charge a fee for certification of installers.

515.4.2. The Division may certify any installer who provides evidence of five (5) or more installation of manufactured homes performed by such installer.

515.4.2.1. Evidence of installation shall include copies of all inspection reports made for each installation made by the Division or a certified installation inspector.

515.4.2.2. If in the judgment of the Division, such installer has demonstrated the ability to successfully complete installations of manufactured homes in accordance with the requirements, certification will be granted.

515.4.2.3. If the review of the evidence of the installations does not clearly demonstrate the ability to successfully complete installations in accordance with the requirements, the Division may require additional installations to be performed and reviewed prior to granting certification.

515.4.3. A certified installer may purchase from the Division, manufactured home installation certification insignias.

515.4.3.1. These insignias will be completed by the certified installer upon completion of the installation of the manufactured home and attached to the manufactured home within thirty (30) inches of the electrical service entrance.

515.4.3.2. The certified installer shall make required insignia reports to the Division and shall provide copies of such reports to the Town of Limon.

515.4.4. Installations by a certified installer do not require an inspection by the Division, a certified inspector or the Town of Limon.

515.4.4.1. Any certified installer installing a manufactured home in the Town of Limon shall provide a copy of the certified installer installation authorization to the Town of Limon prior to beginning installation.

515.4.4.2. Nothing in this section relieves the certified installer, manufactured housing unit owner or property owner from meeting all requirements of the Land Development Code of the Town of Limon.

515.5. Certified Installation Inspectors.

515.5.1. The Town of Limon has elected to participate in the Colorado Manufactured Housing Installation Program and therefore will provide all inspection of manufactured housing installations within its jurisdiction, except those provided by a certified installer as described in Section **515.4.**

515.5.2. The Town of Limon may, if a certified installer is not presently employed by the Town of Limon, or is not available to complete an installation inspection, request the Division or a certified inspector to complete the installation inspection.

515.6. Standards.

515.6.1. The Division has adopted standards to be used state-wide for the installation, inspection and enforcement of the installation of manufactured homes.

515.6.1.1. Pursuant to C.R.S. 24-32-3106, a local government unit may not adopt less stringent standards for the installation of a manufactured home than those adopted by the Division.

515.6.2. Pursuant to the standards adopted by the Division, the following standards shall be adopted by the Town of Limon:

515.6.2.1. The primary standard as required for all new homes shall be the Home Manufacturer's written Installation Instructions.

515.6.2.2. Alternate standard when the Home Manufacturer's written Installation Instructions are not available shall be adopted as follows:

515.6.2.2.1. Adoption of the Permanent Foundations Guide for Manufactured Housing, 1996 Edition.

515.6.2.2.1.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Manufactured Home Installation Code of the Town of Limon for manufactured home being installed on a permanent foundation when the manufacturer's written installation instructions are not available.

515.6.2.2.1.2. The purpose of this code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the installation of manufactured homes on permanent foundations when the Home Manufacturer's written instructions are not available while meeting the requirements of Colorado Revised Statutes, Title 24, Article 32, Part 31 in the Town of Limon.

515.6.2.2.2. Adoption of the NCSBCS/ANSI A225.1, 1994/1999 Edition.

515.6.2.2.2.1. Pursuant to Colorado Revised Statutes 31-16-201, *et. seq.*, as amended, there is hereby adopted as the Manufactured Home Installation Code of the Town of Limon for manufactured home being

installed on a temporary foundation when the manufacturer's written installation instructions are not available.

515.6.2.2.2.2. The purpose of this code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the installation of manufactured homes on temporary foundations when the Home Manufacturer's written instructions are not available while meeting the requirements of Colorado Revised Statutes, Title 24, Article 32, Part 31 in the Town of Limon.

515.6.2.3. When alternate standards are used for the installation, inspection and enforcement of the installation of a manufactured home, the applicant for Installation Authorization shall submit a plan for installation for review by the Town of Limon.

515.6.2.3.1. The Board of Trustees shall have the authority to establish a fee structure for such plan review.

515.6.2.3.2. All plans submitted shall meet the requirements establish in the alternative code applicable to the project including requirements for engineering and sealing of plans.

515.6.2.4. No manufactured home shall be installed which does not meet the following minimums:

515.6.2.4.1. Wind Zone: Zone 1

515.6.2.4.2. Thermal Zone 3

515.6.2.4.3. Roof Load thirty (30) psi.

515.7. Inspection Procedures.

515.7.1. The Division shall adopt a standard Installation Authorization to be used statewide including a standard inspection form, and minimum inspection form requirements.

515.7.2. Prior to beginning the installation of a manufactured home, the owner, registered or certified installer of a manufactured home or property owner shall make an application for an Installation Authorization from the Town of Limon.

515.7.2.1. At the time of application for an Installation Authorization, if the primary standard for the installation shall be used, the Manufacturer's written Installation Instructions shall by submitted to the Town of Limon.

515.7.2.2. If the primary standard is not being used, the Town of Limon shall determine the appropriate alternate standard to be used.

515.7.2.3. The Board of Trustees of the Town of Limon shall of the authority to adopt a fee schedule for Installation Program Fees including Insignia Fees, Inspection Fees and Re-inspection Fees.

515.7.3. Owners, registered installers, certified installers and property owners shall display an Installation Authorization at the site of the manufactured home certifying compliance.

515.7.3.1. Each authorization for installation will contain the identity of the installer and owner as well as phone number and contact person and identify the installer as owner, registered or certified.

515.7.3.2. The certificate shall also include the name, address and telephone number of the Town of Limon as the agency issuing the Installation Authorization.

515.7.4. If the primary standard is being used to install the manufactured home, a copy of the manufacturer's instructions shall be available at the time of installation and inspection.

515.7.4.1. The installer is responsible to maintain a copy of the manufacturer's instructions at the installation site.

515.7.4.2. Whenever the manufacturer's instructions are not present at the time of inspection, the inspector may reschedule the inspection.

515.7.4.3. All costs of the inspection and the following re-inspection will be borne by the installer.

515.7.5. The owner, installer, manufacturer, or retailer shall have the right to be present at any inspection.

515.7.6. All manufactured homes that are found to be in compliance with installation standards shall have an insignia of installation completed and permanently attached by the inspector making the inspection.

515.7.6.1. Installation made by a certified installer may be inspected and certified by the installer. Such installations do not require inspection by the Town of Limon.

515.7.6.2. The certified installer shall complete and permanently attach an insignia when the installation is complete and make Insignia Reports to the Town of Limon as required.

515.7.7. When a manufactured home installation is not found in compliance with the applicable manufacturer's instructions or the installation standard, the installer shall be notified in writing by the inspector.

515.7.7.1. The inspector may at the time of inspection, include in the inspection report instructions for the installer to call for re-inspection at any stage to prevent cover up of any part of the installation requiring re-inspection by the inspector.

515.7.7.2. The installer shall pay for any repairs required to bring the installation into compliance including any subsequent inspections required.

515.7.7.3. If a vacant manufactured home fails the installation because of conditions that endanger the health and safety of the occupant, the manufactured home shall not be occupied and the manufactured home shall be visibly posted with notification to prevent occupancy.

515.7.7.4. If the manufactured home fails the installation inspection because of conditions that do not endanger the health or safety of the occupant, the manufactured home may be occupied pending the correction of those defects or deficiencies that served as the basis of the failed inspection.

515.7.8. Application of the Certification Insignia is evidence that permanent utilities may be installed.

515.7.9. Permanent Insignia application is required prior to occupancy of the home.

515.7.10. If an installation or subsequent repair of an installation by an installer fails to meet the instructions or standards within the time limit allowed by the inspector, the inspector shall notify the installer that the installation is in default.

515.7.10.1. The installer shall be given ten (10) working days after notification of default to bring the installation into compliance.

515.7.10.2. The Town of Limon may request that the Division investigate the installation.

515.7.10.3. The Division may revoke, suspend, or fail to renew the registration or certification of the installer and cause the forfeiture of the installer's surety bond on behalf of the owner of the manufactured home for failing to comply with the Division's and Town of Limon's standards regarding installation of a manufactured home.

515.8. Investigation of Consumer Complaints.

515.8.1. The Division and/or the Town of Limon may investigate complaints filed by owners, occupants, dealers, manufacturers or other parties relating to the installation of manufactured homes as necessary to enforce and administer these regulations.

515.8.2. In addition to the required inspections, the Division may inspect the installation of a manufactured home upon written complaint filed by the owner installer, manufacturer, or dealer of a manufactured home.

515.8.2.1. The requesting party shall pay for the inspection prior to the Division's inspection.

515.8.2.2. Homeowners are exempt from paying inspection fees.

515.8.3. The Town of Limon shall file a written complaint with the Division against any installer who has been notified that the installation is in default.

515.8.4. If the installation of a manufactured home by an installer fails the requested complaint inspection, the installer shall reimburse the Division for the cost of the failed inspection.

515.8.5. The installer shall also pay for any subsequent repairs necessary to bring the installation into compliance with the manufacturer's instructions or standards.

515.8.6. The installer shall also pay for any subsequent inspections required by the Division.

515.8.7. Failure of the installer to pay for any inspections or subsequent repairs deemed necessary by the Division shall result in the revocation of registration and/or forfeiture of the installer's performance bond on behalf of the owner of the manufactured home.

515.9. Suspension or Revocation.

515.9.1. The Division may suspend or revoke the registration or certification of an installer if the person fails to:

515.9.1.1. File with the Division and keep in force a letter of credit, certificate of deposit, or surety bond as required; or

515.9.1.2. File with the Division and keep in force required liability insurance; or

515.9.1.3. Pay assessed inspection costs; or

515.9.1.4. Make any subsequent repairs that are necessary to bring the installation into compliance with the manufacturer's instructions or the standards promulgated by the Division and described in the code.

515.9.2. The Division may temporarily suspend a registration or certification if proof of insurance or surety bond has expired.

515.9.3. The Division may revoke the certification of a Certified Installer and replace it, at the Division's discretion, with the status of Registered Installer.

515.9.3.1. All unused installation insignias must be returned to the Division immediately and the installer will lose the right to purchase and install insignias.

515.9.4. When the Division revokes a registration or certification, the installer may reapply as a registered or certified installer one year after the date of revocation.

515.9.5. Installers whose registration or certification has been revoked or suspended may appeal the Division's decision to the State Housing Board for reinstatement.

515.10. Revocations, Suspension and Appeal Process.

515.10.1. The Colorado Housing Board may revoke or suspend a certification or registration after notice and hearing pursuant to C.R.S. 24-4-104 and 24-4-105.

515.10.2. Judicial review of the certification or registration revocation actions by the Division or the Colorado Housing Board shall be governed by C.R.S. 24-4-106.

515.11. Installation Certification Insignia.

515.11.1. The Division shall adopt a standard Insignia to be used statewide as a certification of installation certifying that the manufactured home was installed in compliance with the provisions of C.R.S. Title 24, Article 32, Part 31 and regulations promulgated by the Division.

515.11.2. Insignia's shall remain the property of the state of Colorado and are not subject to refund.

515.12. Installation Warranty Period.

Registered and certified installers shall warranty the installation of a manufactured home for one year from the date the insignia was affixed to the manufactured home.

515.13. Penalties and/or Amendments.

515.13.1. Penalties:

515.13.1.1. It shall be unlawful for any person, firm or corporation to install, use, occupy or maintain any manufactured home or cause or permit the same to be done in violation of this code.

515.13.1.2. Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of the provisions of this code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00).

515.13.2. The following amendments, by addition, deletion, revision and exceptions are made to ANSI A225.1; Definitions:

515.13.2.1. Architect: A State of Colorado Licensed Professional Architect.

515.13.2.2. Carport: An awning or shade structure for a vehicle(s) that is freestanding entirely open on two or more sides, and not attached to a Manufactured Home.

515.13.2.3. Engineer: A State of Colorado Licensed Professional Engineer.

515.13.2.4. Geologist: A State of Colorado Licensed Professional Geologist or Engineer.

515.13.2.1.5. Manufactured Home: A structure, transportable in one or more sections that, in its traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or when erected on site is more than three hundred twenty (320) or more square feet; that is built on a permanent chassis; that is designed to be used as a dwelling; that may or may not have a permanent foundation; that is connected to the required utilities; and that contains the plumbing, heating, air conditioning, and electrical systems, except that such term shall include any structure that meets the size requirements and for which the manufacturer has voluntarily filed a certification required the Secretary of Housing and Urban

Development (HUD); and that complies with the Manufactured Home

515.14. Encroachments and Setback Distances.

515.14.1. All requirements of the Land Development Code of the Town of Limon regarding encroachments in streets, yards and courts shall be obeyed, and required setbacks from property lines and public roads shall be met.

515.14.2. Fire Separation Distances. The distance a home must be sited from other structures depends on its fire resistance rating. No manufactured home may in installed closer than ten (10) feet from another primary structure.

515.14.3. Bearing Capacity. Test the bearing capacity of the soil in accordance with 3.2.3 before designing the foundation. If the soil cannot be tested, but its type can be identified, use the foundation bearing pressures shown in table 3-1 as a guide. If the soil cannot be identified, use a bearing capacity of one thousand (1,000) pounds per square foot. Under unusual conditions, or if the soil appears to be composed of peat or un-compacted fill, or has expansive characteristics, consult a local geologist, engineer, or architect.

515.14.4. Soil. Use a pocket penetrometer or other methods acceptable to the local jurisdiction having authority. The proper penetrometer reading must be taken after removing all organic material to undisturbed earth, at the foundation bearing level. The installer is responsible for documenting soil types and bearing capacities.

515.14.5. Gutters and Downspouts. When gutters and/or downspouts are installed, direct the runoff away from the home. The use of splash blocks and downspout extensions will enhance drainage away from the home.

515.14.6. Foundation Requirements. All exterior walls, marriage walls, marriage wall posts, columns, and piers must be supported on an acceptable foundation system that must be of sufficient design to support safely the loads imposed, as determined by the character of the soil.

515.14.7. Height Above Grade. Foundation wall shall extend at least six (6) inches above the finished grade adjacent to the foundation at all points.

515.14.8. Minimum Foundation Wall and Wall Footing Thickness. If masonry or concrete construction is used, the minimum foundation wall width shall be six (6) inches. The minimum reinforced concrete footing thickness shall be three and one half (3-1/2) inches or one and one half (1-1/2) times the length of the footing projection from the foundation wall, whichever is greater.

515.14.9. Crawl Space Requirements (Basementless Spaces).

515.14.9.1. Height Requirement. Ground level must be at last eighteen (18) inches below the bottom of wood floor joists and twelve (12) inches below the bottom of the chassis beams (See **515.4.1.3.3.**)

515.14.9.2. Interior vs. Exterior Ground Level. The interior ground level must be above the outside finish grade with a minimum two percent (2%) slope to the exterior unless:

515.14.9.2.1. Adequate gravity drainage to a positive outfall is provided, or

515.14.9.2.2. A Professional Engineer or Architect certifies the permeability of the soil and the water table is such that water will not collect in the crawl space, or

515.14.9.2.3. A full perimeter foundation drain and sump pit are provided.

515.14.9.3. Configuration. Select manufactured pier heights so that the adjustable risers do not extend more than two inches (2”) when finally positioned. All piers must rest on footings (see **515.4.2.**) that extend below the frost line (see **515.4.2.2.** for exemptions to placement) and are placed on either undisturbed soil or compacted fill except for interior heated areas which may bear above frost line on undisturbed soil or compacted fill.

515.14.9.4. Design Procedures. Pier height is to be measured from the top of the footing.

515.14.9.5. Other Materials. Other materials approved for footings may be used when approved by local authorities if they provide equal load-bearing capacity and resistance to decay. Examples include: one half inch (1/2”) maximum crushed stone; three eights inch (3/8”) or three fourths (3/4”) graduated gravel; coarse sand, with no grains smaller than one sixteenth inch (1/16”), placed so it provides a soil-bearing capacity of at least three thousand (3,000) pounds per square foot; approved ANS footings.

515.14.10. Permanent Foundation. See Permanent Foundations Guide for Manufactured Housing.

515.14.11. Severe Wind Areas. Consult the authority having jurisdiction or a Professional Engineer or Architect.

515.14.12. (Table 5-1) Normal Home Installations (Single – Or – Multi-section Homes)

515.14.12.1. Piers-Ground Anchors: The manufactured home rests on piers of concrete block; formed-in-place concrete; permanent wood; or steel pedestals on permanent wood, crushed stone, approved ABS, or concrete footers. The ground anchors are embedded at an angle in the soil to act as dead-men to resist the horizontal and vertical wind forces. Straps are tied to the frame, with or without over-the-top straps.

515.14.12.2. Duct-work Cross-overs. Clamp the flexible air conditioning and/or heating ducts to the sleeves projecting through the bottom covering, seal the ducts' adjustable collars with several wrappings of duct tape, and suspend/support them above the ground (See Figure 5-1).

515.14.12.3. Number and Location of Anchors:

515.14.12.3.1. The home must be anchored to the ground in order to resist overturning and lateral movement (sliding) of the home caused by forces imposed by the wind. The Tie Down Anchoring System described in this section is one acceptable method of anchoring the home to withstand its wind load.

515.14.12.3.2. Unless otherwise noted, all Tie Down and Anchoring Instructions are for homes with roof pitches which do not exceed twenty (20) degrees (4.3 inches in 12 inches).

515.14.12.3.3. The Tie-Down Anchoring Devices shall be certified by a Registered Colorado Professional Engineer, Architect or a nationally recognized laboratory. They must be capable of resisting an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a fifty percent (50%) overload (4,725 pounds total) at an angle of forty-five (45) degrees from the vertical. Ground anchors must be installed as specified by the Anchor Manufacturer.

515.14.12.3.4. Anchoring Equipment exposed to weather shall have a resistance to weather deterioration at least equivalent to that provided by a coat of zinc on steel of not less than 0.3 ounces per square foot of surface coated. Slit or cut edges of zinc-coated strapping do not need to be zinc coated.

515.14.12.3.5. Straps shall be Type 1, Finish B, Grade 1 steel strapping, 1-1/4 inches wide and 0.035 inches in thickness, certified by a Registered Professional Engineer or Architect, or listed as conforming with ASTM Standard Specification D3953-91, Standard Specification for Strapping, Flat Steel and Seals.

515.14.12.3.6. The home must be in its final position with sections fastened together prior to installing Tie-Down Equipment.

515.14.12.4. Ground Anchors

515.14.12.4.1. Before Ground Anchor Installation, determine that the anchors will not be close to any underground utility lines.

515.14.12.4.2. The Ground Anchor Spacing and Installation Method were developed by the Manufactured Housing Research Alliance.

515.14.12.5.3. Ground Anchors shall be installed in accordance with the manufacturer's written instructions. The following is one example: Install the anchors at the locations selected from Table D when the home manufacturer's installation instructions are not available.

515.14.12.6. Steps for Proper Ground Anchor Installation. These steps must be followed to use Table D:

515.14.12.6.1. Place the Anchors approximately four (4) inches to the inside of the exterior wall line of the home or a sufficient distance to avoid interference with the skirting (See Diagram).

515.14.12.6.2. Hold the Anchor at an angle of approximately fifteen (15) degrees off of vertical so that the head of the Anchor is just outside the sidewall (See Diagram).

515.14.12.6.3. Install the Anchor to a depth of approximately one-third (1/3) the Anchor length.

515.14.12.6.4. Place a Stabilizer Plate (all lateral loaded Ground Anchor must have Stabilizer Plates) of the size indicated on the chart to the inside of the Anchor Shaft (side of Shaft toward center of house) and two (2) inches from the shaft (See Diagram).

515.14.12.6.5. Drive the Stabilizer Plate into the ground until the top of the Plate is flush with the surface of the ground.

515.14.12.6.6. Install the Anchor to its full length.

515.14.12.6.7. Attach the Anchor Head to the chassis main rail with approved strapping and connection hardware in accordance with the Strap Manufacturer's Instructions.

515.14.12.6.8. Pretension the Anchor by pulling it up to the Stabilizer Plate. Pull the Anchor approximately one-half (1/2) inch more while it is in contact with the Plate using the Strap and take-up bolt to move the Anchor Head.

515.14.12.6.9. After all Anchors have been installed and pretensioned, recheck all Anchor Straps to assure that they are tight and that the Anchor Shafts have remained in contact with the Stabilizer Plate.

515.14.12.7. Important Notes about the Anchor Spacing Selector

515.14.12.7.1. For homes with eight (8) foot sidewalls, reduce the recommended Anchor Spacing by one half (1/2) foot.

515.14.12.7.2. Do not use this chart for homes with roof slopes greater than twenty (20) degrees (approximately 4-in-12).

515.14.12.7.3. Anchors are required within two (2) feet of each end wall.

515.15. Installation of On-site Structures.

515.15.1. Design all building and structures to support all of their own live and dead loads. All buildings and structures must meet the requirements of building codes as described in Chapter 513-Building Codes.

515.15.2. Porches. Site constructed porches must be constructed and inspected according to the requirements of Chapter 513-Building Codes.

515.16. Skirting.

515.16.1. Skirting shall be of durable materials suitable for exterior exposures. Skirting must not be attached in a manner that can cause water to be trapped between the siding or trim to which it is attached. All lumber and wood siding to be used within six (6) inches of the ground shall be pressure treated to prevent decay and termite infestations. Other materials may be used in accordance with the manufacturer's listing and written instructions.

515.16.2. Except as specifically permitted by an Engineer or Architect, a uniform six (6) mil polyethylene sheet material or other acceptable vapor barrier material shall be installed on the ground surface between the home to further reduce moisture. When installed the integrity of the vapor barrier shall be maintained. When an acceptable ground vapor barrier is installed and one such ventilation opening is within three (3) feet of each corner of the home, the total area of ventilation openings may be reduced to one (1) square foot for every three hundred (300) square feet of the home's floor area.

515.16.3. Dryer vents, air conditioning condensation drains must pass through the skirting to the outside.

515.17. Proper Procedures.

Utility connections should be made only by qualified service personnel. Electrical and Plumbing Permits may be required by the State of Colorado.

515.18. Testing Procedures.

Even though the drainage system was tested at the factory, it shall be rechecked for leaks after installation at the site. This shall be accomplished by capping the building drain line, filling it with water and holding fifteen (15) minutes. In freezing conditions, add antifreeze to the P-traps.

515.19. Code Copies.

At least one (1) copy of each code adopted herein by reference, all certified to be true copies by the Mayor and the Clerk of the Town of Limon, have been filed in the office of the clerk at least 15 days preceding the hearing hereon and shall be kept there for public inspection while this code is in force. Said copies may be inspected by interested persons between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The codes as finally adopted shall be available for sale to the public through the Office of the Town Clerk at a moderate price. After the adoption of this ordinance, and the codes herein stated by reference, the copy of said codes may be kept in the Office of the Building Inspector instead of in the Office of the Town Clerk.

520 – Nuisances

HISTORY: Added July 28, 1958 by Ordinance No. 170

520.1. Nuisances Prohibited.

No person being the owner, agent or occupant, or having under his control any building, lot, or premises, shall maintain or allow any nuisance to be or remain thereon.

520.2. Nuisance to be Abated by Chief of Police.

Whenever any nuisance shall be found on any premises within the Town, the Chief of Police is hereby authorized, in his discretion, to cause the same to be summarily abated in such manner as he may direct.

520.3. Duty of Health Officer to Find Cause of Nuisance; Right of Entry; Abatement and Removal.

520.3.1. It shall be the duty of the Chief of Police and such other officers as he may direct, from time to time, to ascertain and cause all nuisances herein declared to be abated.

520.3.2. Each and all of said officers shall, under the supervision of the Chief of Police, have authority in the day time to enter any storehouse, stable, or any building, in order to make a thorough examination of the cellar, vaults, sinks, or drains; to enter upon all lots of grounds; and to cause all stagnant waters to be drained off, and pools, sinks, vaults, drains, holes or low ground to be cleaned, filled up or otherwise purified; and so cause all noisome substances or unhealthy conditions to be abated or removed as provided by this Code and the ordinances of the Town.

520.4. Duty of Property Owner to Abate Nuisance Upon Notice from Chief of Police.

520.4.1. In all cases where a nuisance shall be found in any building, or upon any ground or other premises within the jurisdiction of the Town, twenty-four (24) hours notice may be given in writing, signed by the Chief of Police or by the acting health officer to the owner or occupant or person in possession, charge or control of such building or other premises where he is known and can be found, to remove such nuisance.

520.4.2. In case of his neglect or refusal to abate the same in accordance with such notice, he shall be chargeable with the expenses which may be incurred in the removal thereof, to be collected by suit or otherwise, in addition to penalty for violation hereof.

520.5. Definition of Nuisance to Apply.

In all cases where no provision is herein made defining what are nuisances and how the same may be removed, abated, or prevented, in addition to what may be declared such herein, those offenses which are known to be common law of the land and the statutes of Colorado as nuisances may, in case the same exist within the Town limits or within one (1) mile thereof, be treated as such, and proceeded against as in this article provided, or in accordance with any other provision of law.

520.6. Chief of Police to Ascertain Nuisance.

Whenever the pursuit of any trade, business, or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the Chief of Police dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance, and shall be abated.

520.7. Unclean or Defective Drain, Ditch, Garbage Box, Etc. a Nuisance.

Any unclean, leaking, foul, unsafe, or dangerous, defective or filthy drain, ditch, tank, or gutter, or any leaking or broken slop, garbage, or manure box or receptacle of like character, whenever or wherever found in the limits of the Town, shall be deemed a nuisance.

520.8. Dirt or Offensive Matter in Cleaning Yards, Factories, Etc. a Nuisance.

Whenever there shall be found in or upon any lot or piece of ground within the limits of the Town of Limon, any dirt gathered in cleaning yards, waste, mills, or factories, or any rags, damaged merchandise, wet, broken or leaking barrels, casks, or boxes, or any materials which are offensive, or tend by decay to become putrid or render the atmosphere impure or unwholesome, the same shall be deemed a nuisance.

520.9. Bone Crushing, Fat Boiling, Glue Making, Fertilizer Making, Etc. a Nuisance.

The business or any part thereof, or any of them, of bone crushing, bone boiling, bone rendering, bone burning, fat boiling, fat rendering, fat drying, gut cleaning, or the making of glue, or the manufacture of fertilizing material of any kind or description from any dead animal or part thereof, or any boiling of offal, swill, fat, or grease of any description which shall be done or carried on in an offensive, unclean, or defective manner in any building, yard, or lot of ground within the limits of the Town of Limon, shall be deemed a nuisance.

520.10. Soap Factories, Etc. Stock Permits.

520.10.1. All soap factories, stockyards, pig pens, cow stable, dairies, corrals, fowl coops, fowl yards, candle or coal oil factories existing within the Town of Limon, unless a permit therefor has been issued by the Chief of Police, shall be deemed a nuisance.

520.10.2. Any such permit may be at any time revoked if any of the businesses or places specified are so conducted as to become a nuisance.

520.11. Pond or Pool a Nuisance.

Any lot or piece of ground within the limits of the Town of Limon on which there is a pond or pool of unwholesome, impure, or offensive water or other material shall be deemed a nuisance.

520.12. Contaminated or Impure Well or Cistern a Nuisance.

520.12.1. Any well or cistern on any property within the limits of the Town of Limon, whenever a chemical analysis or other proper test, or the location of the same, shows that the water of the said well or cistern is probably contaminated, impure or unwholesome, shall be deemed a nuisance.

520.12.2. Every owner, tenant, occupant, lessor or lessee, or other person in possession of any premises or any part thereon, upon which is located a well containing contaminated, impure or unwholesome water, must abandon the use of same and must cause the same to be filled up with earth or such other material as may be designated by the Chief of Police.

520.13. Soap, Hemp, Candle, Oil, Glue, Varnish Factories, Etc., Pork Sausage or Lard Houses, Etc. a Nuisance.

If any owner or owners, occupier of any soap factory, hemp factory, candle factory, oil factory, glue factory, varnish factory, pork house, sausage house, lard house, or place where lead is corroded by manure, shall permit the same to remain unclean, or conduct their business to the annoyance of the citizens of this Town, or any of them, the same shall be deemed a nuisance.

520.14. Noisome or Foul Brewery, Tannery, Stable, Etc. a Nuisance.

Every brewery, distillery, tannery, livery stable or barn, or any factory, place or premise which is or shall become noisome, foul, or offensive, shall be deemed a nuisance.

520.15. Stale or Putrid Fat, Etc. a Nuisance; Sale of Stale Meat, Fish or Fowl Prohibited.

Any stale, putrid, or noisome fat, grease, or other matter which shall be kept, collected or used in any manner shall be deemed a nuisance, unless kept, collected, or used in accordance with the rules and regulations of the Chief of Police.

520.16. Exposure or Conveyance or Anything Prejudicial to Health Forbidden.

No person shall expose, convey, or place or cause to be exposed, conveyed, or placed in any street or public place, any substance, animal, or thing to the prejudice of the public health.

520.17. Building Vehicle or Anything Else in Condition Detrimental to Health Forbidden.

No building, vehicle, structure, receptacle, or thing used, or to be used, for any purpose whatever, shall be made, used, kept, maintained or operated in or retained within the Town if the use, keeping, maintaining or operation of the same shall be the occasion of any nuisance, or dangerous or detrimental of the public health.

520.18. Duty of Chief of Police to Furnish Notice to Abate Nuisance.

520.18.1. Before the filing of any charge relative to any nuisance in Court, it shall first be the duty of the Chief of Police to investigate the condition of said ground, lot, lots or premises.

520.18.2. It shall be his further duty to notify, in writing, said person, or persons in possession, charge, or control of such premises, to abate the same within five (5) days, and failure to so abate the same shall render the said person or persons liable for maintaining a nuisance.

520.18.3. Any person failing to comply with the order of the Chief of Police may be prosecuted for maintaining a nuisance.

520.19. Anything Detrimental to Health a Nuisance.

Every other act or thing, done or made, permitted or allowed, or continued on any property, public or private by any person, firm, corporation, their agents, servants or employees, detrimental to health, or to the damage or injury of any of the inhabitants of this Town, and not hereinbefore specified, shall be deemed a nuisance.

520.20. Police to Observe and Report to Chief of Police any Nuisance or Unsanitary Condition.

It shall be the duty of the police officers to observe the sanitary condition of their districts, and to report to the Chief of Police promptly any nuisance or accumulated filth found in any portion of the Town.

520.21. General Penalty Provision.

That any person who violates, disobeys, omits, neglects or refuses to comply with or resists any of the provisions of section **520**or who refuses or neglects to obey any of the rules, orders, proclamations, or sanitary regulations of the Chief of Police or Mayor, continuance of any thing commanded or prohibited by this article for twenty-four hours shall constitute a separate and distinct offense.

520.22. Penalties for Violation.

That any person who violates, disobeys, omits, neglects, or refuses to comply with or resists any of the provisions of this code shall be punished by a fine of not more than Five Hundred Dollars ($500.00).

(Amended January 2, 1997 by Ordinance No. 411)

521 - Junk, Junked Vehicles, and Junkyards.

History: Added on July 7, 1994 by Ordinance 378; amended on August 4, 1994 by Ordinance 379; amended February 2, 1995 by Ordinance No. 385; amended May 2, 1996 by Ordinance No. 397; amended June 6, 1996 by Ordinance No. 398; amended by Ordinance No. 409, December 5, 1996; amended January 2, 1997 by Ordinance No. 411.

521.1. Definitions. For the purpose of this code the following definitions of terms shall apply:

521.1.1. Automobile Graveyard: any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, junked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

521.1.2. Junk: old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, appliances, or parts thereof, iron, steel, and other old scrap ferrous or non-ferrous material.

521.1.3. Junked Vehicle: any vehicle formerly used for transportation on public streets and highways which does not have a current license and registration and/or has been practically inoperative, either by operation of law or as a matter of fact, for a period of sixty days or longer. "Practically inoperative" shall mean the vehicle is incapable of being safely driven upon the streets and highways.

521.1.4. Junkyard: any establishment or place of business maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of an automobile graveyard.

521.1.5. Motor Vehicle Collector:

521.1.5.1. The owner of one or more vehicles of historic or special interest who collects, purchases, acquires, trades, or disposes of these vehicles or parts thereof for his own use in order to preserve, restore, and maintain a vehicle for hobby purposes or use; or

521.1.5.2. A bona fide member of a national automobile club or association whose charter recognizes in membership a sincere demonstration of interest in the history of automotive engineering, in the preservation of antique vintage, or special interest motor vehicles, in a sharing of knowledge and experience with other automotive enthusiasts, in the promotion of good fellowship among such members or collectors.

521.1.5.3. A collectors item must meet requirements set forth in C.R.S. 42-15-101, et. seq..

521.2. Nuisances Enumerated.

521.2.1. Junked Vehicles. Junk and Junked Vehicles are deemed to be a nuisance.

521.2.1.1.Junk, Junked Vehicle and Equipment on Private Property. No owner of any lot, block, or parcel of ground within the Town of Limon, nor any tenant or agent in charge thereof, shall allow or permit any junk or junked, discarded or partially wrecked vehicle, equipment or parts thereof, to remain on such lot, block or parcel of ground, or on or along any sidewalk adjoining the same, or in the alley adjoining.

521.2.1.1.1. Any junk present on any lot, block, parcel of ground, or adjoining sidewalk or alley within the Town of Limon for more than seven (7) days shall be deemed a nuisance.

521.2.1.1.2. Any junked, discarded or partially wrecked vehicle, equipment or parts thereof present on any lot, block parcel of ground, or adjoining sidewalk or alley within the Town of Limon for more than thirty (30) days shall be deemed a nuisance.

521.2.1.2.Junkyards and Motor Vehicle Graveyards.: Junkyards and motor vehicle graveyards are allowed only in zoned districts as defined by the Land Development Code of the Town of Limon. Any junkyard or motor vehicle graveyard not thus allowed is deemed to be a nuisance.

521.2.1.3. Exceptions.

521.2.1.3.1. (Deleted by Ordinance No. 379 on August 4, 1994.)

521.2.1.3.2. A motor vehicle collector may store motor vehicles, as described in C.R.S. 42-15-101, or parts thereof, on his private property provided such vehicles and parts cars and the outdoor storage areas are maintained in such manner that they do not constitute a health hazard, a safety hazard, or a fire hazard and are effectively screened from ordinary public view by means of a solid fence, trees, shrubbery, or other appropriate means. Such storage areas shall be kept free of weeds, trash, and other objectionable items.

521.2.1.3.3. Any junkyard two hundred (200) square feet or less is exempt from this section provided that the outdoor storage areas are maintained in such manner that they do not constitute a health hazard, a safety hazard, or a fire hazard and are effectively screened from ordinary public view by means of a solid fence, trees, shrubbery, or other appropriate means. Such storage areas shall be kept free of weeds, trash, and other objectionable items.

521.2.1.3.4. A commercial business, located in a CH-1 zone district, as described in the Land Development Code and Official Zoning Map of the Town of Limon, shall be excluded from the two hundred (200) square foot limit described in Section **521.2.1.3.3.**, provided such outdoor storage areas are maintained in such a manner that they do not constitute a health hazard, a safety hazard, or a fire hazard and are effectively screened from ordinary public view by means of a solid fence, trees, shrubbery, or other appropriate means. Such storage area shall be kept free of weeds, trash, and other objectionable items, ie. items prohibited by statute, code or ordinance.

521.2.1.3.5. Fencing materials, as allowed in Sections **521.2.1.3.** must meet all requirements of the Land Development Code and Building Code and the design be approved by a committee consisting of the Mayor, Town Manager and one trustee appointed by the Mayor in order to assure that materials and screening ability are:

521.2.1.3.5.1. Effective during all calendar months of the year; and

521.2.1.3.5.2. Visually and aesthetically compatible with the location, surrounding structures and properties.

521.3. Abatement Procedures.

The Town shall remedy or abate any nuisance as defined by this code in the following manner:

521.3.1. Abatement by Town. If any owner, tenant or agent in charge of real property shall allow a nuisance to exist on any lot, block or parcel, within five days after being notified to do so in writing by the designated appointed Town employee or agent, by personal service or registered or certified mail, the Town Manager and Town Chief of Police, may direct that the nuisance be abated or caused to be abated by the Town, and charge the cost thereof to such owner, tenant or agent in charge, together with five percent additional fee of the total cost, for inspection and other incidentals.

521.3.2. Collection of Costs of Abatement by Town.

521.3.2.1. In the event the nuisance on any lot, block or parcel of ground, or along the sidewalk or alley adjoining the same, is abated by order of the Town Manager and Town Chief of Police, the whole cost of abatement, together with five percent for inspection and other incidentals, shall be paid within thirty days after mailing by the Town Clerk to the owner of such lot, block or parcel of ground, by registered or certified mail, notice of the assessment of such cost.

521.3.2.2. Failure to pay such assessment within such period of thirty days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time, after such failure to so pay the same, within thirty days, by the Town Clerk to the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with ten percent penalty to defray the cost of collection.

521.4. Penalties for Violation.

Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of the provisions of this code is committed, continued, or permitted. Such offense or offenses may be punishable by a fine not to exceed Five Hundred Dollars ($500.00) per offense.

(Amended January 2, 1997 by Ordinance No. 411)

522 - Sewage

(Deleted in its entirety by Ordinance No. 380 on October 6, 1994)

523 - Garbage

(Deleted in its entirety by Ordinance No. 380 on October 6, 1994)

524 - Arboriculture

HISTORY: Added by Ordinance No. 357, December 12, 1991; amended June 6, 1996 by Ordinance No. 398.

524.1. Purpose.

The purpose of this code is to promote the health of the community forest and thereby the health, safety, and aesthetics of the Town and its residents or visitors by promoting good arboriculture practices.

524.2. Definitions.

524.2.1. Street trees: Street trees are herein defined as trees, shrubs, and all other woody vegetation on land located within Town easements.

524.2.2. Park trees: Park trees are herein defined as trees, shrubs, and all other woody vegetation in public parks, cemeteries, and all other property owned by the Town.

524.2.3. Hazard trees: Hazard trees are herein defined as trees, shrubs, and all other woody vegetation on public or private property that pose a threat to public safety by their condition or location.

524.2.4. Firewood: Firewood is herein defined as trees, shrubs, and all other woody articles stored with the intent to be used in the future as a source of fuel for any fire burning operation.

524.2.5. Flowline: The path drainage water should run, according to survey, next to the roadway; normally known as the gutter, where curb and gutter exists.

524.3. Establishment of a Town Tree Board.

524.3.1. The Limon Tree Board will consist of 5 members, citizens and residents of Limon, appointed by the Town Board. Members will serve without compensation.

524..3.2. The Limon Tree Board will elect officers annually and will operate according to standard meeting procedures. Members will be appointed for three year terms and can be reappointed.

524.4. Responsibilities of the Tree Board.

524.4.1. The Limon Tree Board will have the responsibility of educating the community about the advantages of growing trees and maintaining them properly. It will provide the community with information on viable species for the area, how to plant them, and how to maintain them. The Board will also prepare and update a community forestry program and organize annual tree planting and Arbor Day projects.

524.4.2. The Limon Tree Board, when requested by the Town Board, will consider, investigate, report, and make recommendations upon any special matter coming within the scope of its responsibility.

524.5. Appointment and Duties of the Town Arborist.

The Town Manager shall be considered the Town Arborist and have the authority to appropriately deal with problems concerning trees within the Town, and to recommend and/or require necessary maintenance or removal of hazard trees as outlined herein.

524.6. Tree Trimmers Registration.

(Deleted on November 7, 1996 by Ordinance No. 406)

524.7. Public Tree Care.

524.7.1. The Town of Limon shall have the right to plant, spray, prune, maintain, and remove trees and shrubs within the easements of all streets, alleys, and public grounds, as deemed necessary to insure public

safety or to preserve or enhance the symmetry and beauty of such public grounds, if not properly done by the property owner.

524.7.2. The Town Arborist may remove or cause to be removed, any park tree or street tree, or part thereof which is in unsafe condition, or which by reason of its nature is injurious to sewers, utility lines, or other public improvements, or is infected with any dangerous fungus, insect or disease. The Town Arborist may also remove or cause to be removed any tree or part thereof, which is protruding over any street or roadway allowing less than a minimum of fourteen (14) feet clearance above the grade of the roadway.

524.8. Dead or Diseased Tree Removal on Private Property.

524.8.1. The Town shall have the right to cause the removal of any dead or diseased trees on private property within the Town limits, when such trees constitute a hazard to personal safety or property, or harbors insects or disease which constitutes a potential threat to other trees within the Town. The Tree Board will notify the owners of such trees in writing.

524.8.2. Removal of such trees shall be done by the owners, at their own expense, within forty five (45) days after the date of notification. In the event of failure of the owners to comply with such provisions, the Town shall have the authority to remove, or have removed, such trees and charge the cost of removal to the owner's utility bill. In the case of an absentee owner that does not receive the utility bill, or said bill is unpaid, the cost of removal shall be charged on the owner's property tax notice.

524.8.3. Appeal of this action by the Town must be done by following the process outlined in Section **524.15.**

524.9. Firewood Removal.

The Town shall have the right to remove or have removed any firewood that is stored in a detrimental manner or condition with the bark still on (in the case of elm wood), or so that weeds cannot be kept mowed, and rodents or pests cannot be controlled. Appeal of this action by the Town must be done by following the process outlined in Section **524.15.**

524.10. Tree Spraying.

Any individual or firm desiring to spray any large tree (over 20 feet tall) must inform the Town two (2) working days prior to when the intended spraying is initiated, to inform them of tree location and specific pesticide to be used. Any individual or firm hired to do tree spraying must carry a valid state pesticide license.

524.11. Removal of Stumps.

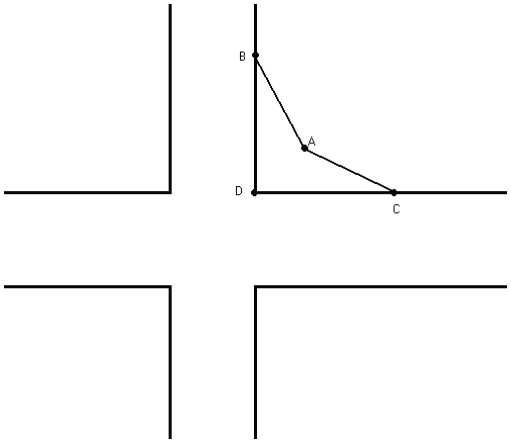
If a street tree or park tree is removed, the remaining stump shall be removed below the surface of the ground and the resulting hole shall be backfilled to the existing grade of the surrounding ground with the appropriate material by the entity removing said tree.

524.12. New Tree Plantings.

524.12.1. In order to insure proper visual capability at all intersections within the Town of Limon, it shall be unlawful to plant any tree on any intersectional corner within the Town of Limon, within the area described by the boundary lines between points A, B, C, and D as in section **524.12.2.** Shrubs within such area shall be maintained at a height of thirty (30) inches or less within these same parameters.

524.12.2. Tree Plantings Sketch:

A to B = 60 feet
A to C = 60 feet
Point A is the property corner
Points B, C & D are on the flow line



524.12.3. Shrubs planted next to any driveway, within the Town of Limon within a distance of fifteen (15) feet of any roadway, shall be limited to the same 30 inch maximum height, to avoid any visual obstruction in this situation.

524.12.4. No cotton bearing cottonwood or boxelder tree shall be planted within the Town.

524.12.5. No tree may be planted so as to obstruct any solar panels or satellite dishes in place on adjacent properties prior to the planting. Care should also be taken to avoid future property damage to adjacent

properties resulting from trees being planted too close to existing structures.

524.13. Damage to Street Trees or Park Trees.

Any damage to a street tree or park tree resulting from any act, whether malicious, intentional, or negligent, by any firm or individual shall be unlawful. The responsible party will be liable for all damage occurring to said tree to the extent of replacement cost and labor, or any other necessary remedy.

524.14. Interference with the Tree Board.

It shall be unlawful for any person to interfere with the Tree Board, or any of its agents, while engaging in the inspection, planting, spraying, maintaining, or removing of any street trees, park trees, or trees on private property in accordance with this code.

524.15. Review by the Town Board.

The Town Board shall have the right to review the conduct, acts, and decisions of the Limon Tree Board or the Town Arborist. Any person may appeal any ruling or order the Tree Board or Town Arborist issues, to the Town Board, who will hear the matter within thirty (30) days and render final decisions thereon. This review must be requested in writing within fifteen (15) days after said party receives notice of the needed maintenance or removal.

524.16. Penalties for Violations.

Any person who violates the provisions of this code shall, upon conviction, be punishable by a fine of not more than Five Hundred Dollars ($500.00). Each day that such violation shall continue shall constitute a separate and distinct offense.

(Amended January 2, 1997 by Ordinance No. 411)

525 - CONTROL OF UNDESIRABLE PLANTS

HISTORY: Added by Ordinance No. 358, February 13, 1992; amended in entirety on July 11, 2002 by Ordinance No. 476.

525.1. Definitions. As used in this article, unless the context otherwise requires:

525.1.1. Alien plant: a plant species that is not indigenous to the state of Colorado.

525.1.2. Integrated management: the planning and implementation of a coordinated program utilizing a variety of methods for managing noxious weeds, the purpose of which is to achieve desirable plant communities. Such methods may include but are not limited to education, preventive measures, good stewardship, and the following techniques:

525.1.3. Biological management: the use of an organism to disrupt the growth of noxious weeds.

525.1.4. Chemical management: the use of herbicides or plant growth regulators to disrupt the growth of noxious weeds.

525.1.5. Cultural management: methodologies or management practices that favor the growth of desirable plants over noxious weeds, including maintaining an optimum fertility and plant moisture status in an area, planting at optimum density and spatial arrangement in an area, and planting species most suited to an area.

525.1.6. Mechanical management: methodologies or management practices that physically disrupt plant growth, including tilling, mowing, burning, flooding, mulching, hand-pulling, hoeing, and grazing.

525.1.7. Landowner: any owner of record of state, municipal, or private land and includes an owner of any easement, right-of-way, or estate in the land.

525.1.8. Local advisory board: those individuals appointed by the Board of Trustees to advise on matters of noxious weed management.

525.1.9. Local noxious weed: any plant of local importance that has been declared a noxious weed by the Board of Trustees.

525.1.10. Management: any activity that prevents a plant from establishing, reproducing, or dispersing itself.

525.1.11. Management plan: the noxious weed management plan developed by the local advisory board using integrated management.

525.1.12. Native plant: a plant species that is indigenous to the state of Colorado.

525.1.13. Noxious weed: an alien plant or parts of an alien plant that have been designated by rule as being noxious or has been declared a noxious weed by a local advisory board, and meets one or more of the following criteria:

525.1.13.1. Aggressively invades or is detrimental to economic crops or native plant communities;

525.1.13.2. Is poisonous to livestock;

525.1.13.3. Is a carrier of detrimental insects, diseases, or parasites;

525.1.13.4. The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

525.1.14. Noxious weed management: the planning and implementation of an integrated program to manage noxious weed species.

525.1.15. Person or **occupant:** an individual, partnership, corporation, association, or federal, state, or local government or agency thereof owning, occupying, or controlling any land, easement, or right-of-way, including any city, county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, gas and oil pipeline, high voltage electrical transmission line, or right-of-way for a canal or lateral.

525.1.16. Plant growth regulator: a substance used for controlling or modifying plant growth processes without appreciable phytotoxic effect at the dosage applied.

525.1.17. State noxious weed: any noxious weed identified by the commissioner of Agriculture of the state of Colorado by rule after surveying the local advisory boards and prioritizing the top ten weeds. Said survey should be conducted every three years.

525.1.18. Weed: any undesirable plant.

525.2. Duty to Manage Noxious.

It is the duty of all persons to use integrated methods to manage noxious weeds if the same are likely to be materially damaging to the land of neighboring landowners.

525.3. Noxious Weed Management.

525.3.1. The Board of Trustees shall adopt a noxious weed management plan for all lands within the corporate limits of the Town.

525.3.2. The Board of Trustees shall appoint a Noxious Weed Advisory Board with the power and duty to:

525.3.2.1. Develop a recommended management plan for the integrated management of designated noxious weeds and recommended management criteria for noxious weeds within Town of Limon.

525.3.2.1.2. The management plan shall be reviewed at regular intervals but not less often than once every three years by the local advisory board.

525.3.2.1.3. The management plan and any amendments made thereto shall be transmitted to the Board of Trustees for approval, modification, or rejection.

525.3.2.2. Declare noxious weeds and any state noxious weeds designated by rule to be subject to integrated management.

525.3.2.3. Recommend to the Board of Trustees that identified landowners be required to submit an individual integrated management plan to manage noxious weeds on their property.

525.3.2.4. The Board of Trustees, at its sole option, shall appoint a commission of landowners, to act as the Noxious Weed Advisory Board for the Town of Limon.

525.3.2.4.1. The Noxious Weed Advisory Board shall consist of five (5) members.

525.3.2.4.2. The members of the Noxious Weed Advisory Board shall be residents of Town.

525.3.2.4.3. Each Noxious Weed Advisory Board shall annually elect a chairman and secretary.

525.3.2.4.4. A majority of the members of the board shall constitute a quorum for the conduct of business.

525.3.3. The Board of Trustees, through its delegates, agents, and employees, shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours for the purpose of inspecting for the existence of noxious weed infestations, when at least one of the following circumstances has occurred:

525.3.3.1. The landowner or occupant has requested an inspection;

525.3.3.2. A neighboring landowner or occupant has reported a suspected noxious weed infestation and requested an inspection; or

525.3.3.3. An authorized agent of the Town has made a visual observation from a public right-of-way or area and has reason to believe that a noxious weed infestation exists.

525.3.3.4. No entry upon any premises, lands, or places shall be permitted until the landowner or occupant has been notified by certified mail that such inspection is pending. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.

525.3.3.5. If after receiving notice that an inspection is pending the landowner or occupant denies access to the inspector of the Town, the inspector may seek an inspection warrant issued by the Limon Municipal Court.

525.3.3.5.1. The court shall issue an inspection warrant upon presentation by the Town, through its agent or employee, of an affidavit stating: The information which gives the inspector reasonable cause to believe that any provision of this article is being or has been violated; that the occupant or landowner has denied access to the inspector; and a general description of the location of the affected land.

525.3.3.5.2. No landowner or occupant shall deny access to such land when presented with an inspection warrant.

525.3.3.6. The Board of Trustees shall have the authority, acting directly or indirectly through its agent or staff, to notify the landowner or occupant of such lands, advising the landowner or occupant of the presence of noxious weeds.

525.3.3.6.1. Said notice shall name the noxious weeds, advise the landowner or occupant to manage the noxious weeds, and specify the best available control methods of integrated management.

525.3.3.6.2. Where possible, the Town shall consult with the affected landowner or occupant in the development of a plan for the management of noxious weeds on the premises or lands.

525.3.3.7. Within a reasonable time after receipt of notification, which at no time shall exceed ten days, the landowner or occupant shall either:

525.3.3.7.1. Comply with the terms of the notification;

525.3.3.7.2. Acknowledge the terms of the notification and submit an acceptable plan and schedule for the completion of the plan for compliance; or

525.3.3.7.3. Request an arbitration panel to determine the final management plan.

525.3.3.7.3.1. The arbitration panel selected by the Board of Trustees shall be comprised of a weed management specialist or weed scientist, a landowner of similar land in the Town of Limon, and a third panel member chosen by agreement of the first two panel members.

525.3.3.7.3.2. The landowner or occupant shall be entitled to challenge any one member of the panel, and the local governing body shall name a new panel member from the same category.

525.3.3.7.3.3. The decision of the arbitration panel shall be final.

525.3.3.8. In the event the landowner or occupant fails to comply with the notice to manage the identified noxious weeds or implement the plan developed by the arbitration panel, the Town has the authority to:

525.3.3.8.1. Provide for and compel the management of such noxious weeds at such time, upon such notice, and in such manner as the Town shall prescribe; and

525.3.3.8.2. Assess the whole cost thereof, including up to twenty percent for inspection and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located; except no tax lien against land it administers as part of a public right-of-way shall be levied.

525.3.3.8.3. Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

525.3.3.8.4. Such assessment may be certified to the county treasurer of the county in which the property is located and collected and paid over in the same manner as provided for the collection of taxes.

525.3.3.8.5. Any funds collected pursuant to this section shall be deposited in the General Fund.

525.3.3.9. No local governing body shall provide for or compel the management of noxious weeds on private property pursuant to this subsection **525.3.3.8.** without first applying the same or greater management measures to any land or rights-of-way owned or administered by the Town that are adjacent to the private property.

525.3.3.10. The Town may not assess the cost of providing for or compelling the management of noxious weeds on private property until the level of management called for in the notice or the management plan developed by the arbitration panel has been successfully achieved.

525.3.3.11. The Town, through its delegates, agents, and employees, shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours for the purpose of ensuring compliance with the requirements of this article concerning noxious weed management and any other local requirements.

525.3.3.12. No agent, employee, or delegate of the Town shall have a civil cause of action against a landowner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with this code except when such damages were willfully or deliberately caused by the landowner.

525.3.4. The Board of Trustees may declare additional noxious weeds, not on the state list of plant that are designated as noxious weeds after a public hearing with thirty days prior notice to the public.

525..4. Penalty for Violation.

Any person who violates the provisions of this ordinance shall, upon conviction, be punishable by a fine of not more than Five Hundred Dollars ($500.00). Each day that such violation shall continue shall constitute a separate and distinct offense.

530 - Health Regulations Pertaining to Animals

531 - Pertaining to Dogs

(Amended on June 6, 1996 by Ordinance No. 398, and on June 6, 2002 by Ordinance No. 473; Amended September 6, 2007 in its entirety by Ordinance No. 520.)

531.1. Definitions.

For the purpose of this code, certain terms and words are herewith defined as follows:

531.1.1. Dog, Owners: any person over eighteen years of age, emancipated minor under the age of eighteen without direct adult supervision, parent guardian, or custodian of any child under the age of eighteen, firm, corporation, or organization, owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a dog, aggressive dog, or dangerous dog

531.1.2. Dog: Any animal of canine species regardless of sex.

531.1.3. Dog, Aggressive: any dog that barks, growls, charges at, jumps upon, or has demonstrated tendencies, without provocation, in a menacing manner, that would lead a reasonable person to believe that the dog may inflict bodily injury upon or cause the death of any person or domestic animal, or has engaged in or been trained for fighting as described and prohibited in Colorado Revised Statute 18-9-204. For purposes of this definition, “domestic animal” shall mean any other dog, cat, or livestock that may be permitted to be within the Town boundaries.

531.1.4. Dog, Dangerous: any dog that has inflicted bodily injury or serious bodily injury upon or has caused the death of a person or domestic animal

531.1.5. Dog Bite: any bruising of the skin or break in the skin caused by any contact with the tooth or mouth of a dog.

531.1.6. Dog, Harboring: the act of keeping or caring for a dog or providing premises to which a dog returns for food, shelter, or care, or the act of providing refuge to a dog in order to evade the impoundment of the dog by lawful authority.

531.1.7. Dog, Male: Any dog of masculine gender, not castrated.

531.1.8. Dog, Neutered: Any male dog which has been castrated by a licensed veterinarian and accompanied by a certificate asserting said operation has been performed.

531.1.9. Dog, Female: Any dog of the female gender on which no alternative surgery of the genital organs has been performed.

531.1.10. Dog, Spayed Female: Any female dog on which an ovariectomy or ovarhisterectomy has been performed by a licensed veterinarian and accompanied by a certificate asserting said operation has been performed.

531.1.11. Dog, Stray: Any unlicensed or licensed dog found unattached or loose anywhere within the town limits.

531.1.12. Bodily Injury: any physical injury that results in bruising, muscle tears, or skin laceration.

531.1.13. Rabies: A communicable disease of both wild and domestic animals transmittable to humans, as defined by the "Public Health Department." "Specific infectious disease of certain animals, especially dogs and wolves, contracted by man by direct inoculation as by bite of infected animal and due to a filtrable virus" - as defined in Dorland's Medical Dictionary.

531.1.14. Serious Bodily Injury: bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or second or third degree burns requiring professional medical treatment, or any physical injury that requires corrective or cosmetic surgery.

531.1.15. Vaccinations or Vaccination for Rabies: Inoculation of a dog with standard rabies vaccine.

531.2. Regulation of Dogs within the Town Limits.

The Board of Trustees hereby finds, determines and declares that the following actions of dogs are detrimental to the public health, safety and welfare of the inhabitants of the Town of Limon, and hereby declares that it shall be unlawful for any dog owner to allow his dog, as hereinabove defined, to:

531.2.1. Run at large in the Town of Limon unless said dog is under reasonable control of the owner. For the purpose of this code, a dog shall be deemed under such reasonable control when said dog is accompanied by its owner, or, some member of the owner's family, or with some employee or agent of the owner, with the dog attached to a leash. For the purposes of this code, a dog shall be deemed not under reasonable control when, (1) said dog inflicts damage or injury (by biting, jumping upon, pollution of vegetation, or by any other means whatsoever) to the person or property of anyone other than the owner, except in the defense of the owner, his family or property; (2) in the case of any unspayed female dog not securely confined in the owner's yard, pen or other enclosure.

531.2.2. Go upon school premises without the permission of the person in charge thereof.

531.2.3. Bark, whine, howl or make other noise in a manner which, under non-mitigating circumstances, could be considered by reasonable persons of ordinary sensibilities, as excessive, or continuous.

531.2.4. Attract other animals and cause them to congregate or remain on or about any premises because of being a female in heat and because of the nature of its confinement or lack of the same.

531.2.5. Damage public property or private property not owned by the owner.

531.2.6. Be abandoned.

531.2.7. Be tied or otherwise physically fastened to any object on public property when the owner has departed from the immediate vicinity of the location where the animal has been physically fastened; or be tied or otherwise physically fastened on private property so as to create an immediate danger to the physical well-being of the animal or any person.

531.2.8. Be on premises open to the public where food or beverages are prepared, stored or sold; however, this paragraph does not apply to seeing-eye dogs or dogs trained as ears for the deaf and in such premises for such purposes at the time.

531.2.9. Be found unleashed in a public park, provided, however, this subsection does not apply to seeing-eye dogs, government owned animals or animals participating in shows or exhibits authorized by the Board of Trustees.

531.2.10. Defecate upon public property or private property not owned by the owner, and such excreta is not immediately removed by the owner at that time.

531.3. Ownership of Dangerous Dogs Prohibited.

531.3.1. A dog owner, as defined herein, commits ownership of a dangerous dog if such person or entity owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a dangerous dog.

531.3.2 Upon conviction of owning a dangerous dog, and upon consideration of all relevant factors, including the known past history of the dangerous dog, the Municipal Court Judge, in addition to considering all other penalties available under Section **531**, shall have the following additional options:

531.3.2.1. To order the convicted owner to make restitution to any person who suffers injury whether such injury be to the person, property, or domestic animal of the injured person. Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date the animal was injured or destroyed plus any reasonable and necessary medical expenses incurred in the treating of the person or the animal and any actual costs incurred in replacing the injured or destroyed animal or other personal property.

531.3.2.2. To order the owner of a dangerous dog who has been convicted of a violation of this section to confine such dangerous dog in a building or enclosure designed to be escape proof and, whenever such dog is outside of such building or enclosure, keep the dog under such owner's control by use of a leash or a muzzle as the Court may direct.

531.3.2.3. To order in the event of bodily or serious bodily injury or death to a person or domestic animal, or in the event of a second or subsequent violation of this section, the dangerous dog to be immediately confiscated and placed in a public animal shelter and, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this section, to require the dangerous dog to be destroyed by lethal injection administered by a licensed veterinarian. The owner, in such event, shall be responsible for the costs incurred by the Town in the confiscation, impoundment, and veterinary treatment of the dangerous dog, as well as any other costs associated with the enforcement of this Code and the Court's orders.

531.3.2.4. To order, within ten days of the conviction, to obtain and present to the Limon Chief of Police written proof that the owner has procured a homeowner's or renter's liability insurance policy, or a rider to an existing policy, in the minimum amount of One Hundred Thousand Dollars ($100,000.00) to specifically cover any future damage or injury that may be caused by the subject dangerous dog during the period of court ordered supervision, such supervision to be no less than one (1) year from the date of conviction. During the period of supervision, the owner shall provide written proof on a quarterly basis of the necessary coverage.

531.3.3. It shall be an affirmative defense to the charge of owning a dangerous dog if the dangerous dog, while confined to the dangerous dog owner's property, injures a domestic animal which was at large as defined by section **531.2.1.** or injures a person who is on the dangerous dog owner's property for the purpose of attempting or committing a criminal offense, other than a petty offense, against the dangerous dog's owner or the dangerous dog owner's property, or if the injured person while on the dangerous dog owner's property tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner as to result in the dog attack.

531.4. Ownership of Aggressive Dogs Prohibited.

Ownership of an aggressive dog, as defined herein, is prohibited except under the conditions set forth below:

531.4.1. A dog owner or one who harbors a dog, as defined herein, is guilty of ownership of an aggressive dog if he or she owns or harbors a dog which engages in any of the following conduct within the Town of Limon:

531.4.1.1. The dog approaches any person or persons, without provocation, in a menacing and threatening manner, whether or not an attack by the dog upon the person or persons actually occurred.

531.4.1.2. The dog, in an attacking, menacing, or threatening manner encroaches over, through, or under a fence onto public property or the private property of another; or

531.4.1.3. The dog inflicts a dog bite, or a puncture would, abrasion, or other wound caused by the aggressive dog's teeth upon a person or a domestic animal in which the injury does not meet the definition of bodily injury or serious bodily injury.

531.4.2. Upon conviction of owning an aggressive dog, and upon consideration of all relevant factors, including the known past history of the aggressive dog, the Municipal Court Judge, in addition to considering all other penalties available under section **531,** shall have the following additional options:

531.4.2.1. To order, when the dog is leashed, the owner may not use an extension style leash or leash the dog to any permanent inanimate object. Rather the dog shall be in a secure fenced area or be on a short leash under the constant supervision and surveillance of the owner.

531.4.2.2. The owner shall successfully complete a court approved animal obedience training, behavior modification, pet management class, and / or any other treatment program that the Court may deem to be appropriate. The owner shall bear the entire cost of all programs, classes, or trainings.

531.4.2.3. The owner shall, at the owner's expense, have the animal spayed or neutered and shall provide written proof from a licensed veterinarian to the Limon Police Department that the sterilization has been performed.

531.4.2.4. To order, within ten days of the conviction, to obtain and present to the Limon Chief of Police written proof that the owner has procured a homeowner's or renter's liability insurance policy, or a rider to an existing policy, in the minimum amount of One Hundred Thousand Dollars ($100,000.00) to specifically cover any future damage or injury that may be caused by the subject aggressive dog during the period of court ordered supervision, such supervision to be no less than one (1) year from the date of conviction. During the period of supervision, the owner shall provide written proof on a quarterly basis of the necessary coverage.

531.4.2.5. To order removal of the aggressive dog from the Town of Limon.

531.4.3. It shall be an affirmative defense to the charge of Ownership of an Aggressive Dog, if the aggressive dog while confined to the aggressive dog owner's property, is aggressive to a person or domestic animal that is on the aggressive dog owner's property for the purpose of committing a criminal offense against the aggressive dog's owner, the aggressive dog owner's property, or if the aggressive dog, while on the aggressive dog owner's property is tormented, provoked, abused or inflicted injury upon, in such a manner as to result in the dog being made aggressive.

531.5. Annual Vaccination and Licensing of Dogs Required.

It shall be the duty of every person who owns or harbors any dog or dogs in the Town of Limon, Colorado, to have such dog or dogs inoculated by a regularly licensed veterinarian of the State of Colorado and to obtain a certificate from said veterinarian, setting out the fact of such vaccination and also to obtain from the Town Clerk of the Town of Limon, Colorado, a license for each dog. The owner, possessor or keeper of any dog within the Town of Limon shall secure a license for such dog from the Town Clerk on or before the first day of March each year or within 30 days after dog reaches the age of four (4) months. Dogs purchased, obtained or otherwise acquired subsequent to the first day of March in any calendar year shall be licensed within 30 days after such acquisition, or within 30 days after the dog reaches the age of four (4) months. New residents of the town shall have 30 days after becoming residents to secure a license hereunder. The license, which may be in the form of a receipt, shall state the name of the owner, the date of issuance and date of inoculation, and a description of the dog.

531.6. Persons Authorized to Inoculate and Issue Licenses.

Inoculation of dogs under this code may be performed by any licensed veterinarian of the State of Colorado and licenses for dogs shall be issued by the Town Clerk of the Town of Limon, Colorado. The owner or harborer of every dog so inoculated shall pay the veterinarian inoculating same his fee therefor and shall pay a license fee to the Town of Limon as follows:

531.6.1. Each neutered male or each spayed female $ 5.00

531.6.2. Each unneutered male or each unsprayed female $10.00

531.6.3. Any license obtained outside the time limitations herein set forth shall bear a penalty of $10.00, which penalty shall be in addition to the license fee and paid to the Town Clerk at the time of license purchase.

531.7. Duty of Persons Performing Vaccination and Licensing.

Every veterinarian performing vaccination shall furnish the owner of any dog vaccinated, a certificate of such vaccination, which shall be presented to the Town Clerk who upon payment of the Town license fee, shall issue the license provided for in Section **531.6.** retaining a record thereof in his office. No license shall be issued for any dog without the production of certificate of vaccination and payment of license fee.

531.8. Information on Licenses and Tags.

The Town Clerk shall issue a license to the owner or harborer of each dog, the receipt for which shall contain the following information: (a) the name and address of the owner, or harborer of any inoculated and licensed dog; (b) the date of inoculation and date of license; (c) the year and series number of the dog tag; (d) the breed, age, color and sex of the inoculated dog. The tags shall be made of durable material suitable to be attached to the collar or harness of the inoculated dog. Such tag shall state the year for which it is issued and the series number of the license and tag. Such tags shall also be prepared and distributed by the Town Clerk.

531.9. Tag to be Attached to Dog and License Retained by Owner.

531.9.1. Every owner or harborer of a dog shall attach the tag evidencing the licensing and inoculation with anti-rabies vaccine to the collar or harness of the inoculated and licensed dog and such collar or harness shall be worn by said dog at all times.

531..9.2. The license shall be retained by the owner or harborer of the inoculated and licensed dog for inspection by any member of the Police Department, at any time.

531.10. Registration.

Period of validity for license and tag. Such inoculation and licensing shall be valid for each calendar year in which same is had and for January and February of the following year.

531.11. Quarantine of Dogs.

531.11.1. A dog which is known to have bitten or injured any person so as to cause an abrasion of the skin or a dog which in the opinion of a member of the Police Department or of any licensed veterinarian of the State of Colorado, appears to be afflicted with rabies, shall be closely confined by its owner in accordance with the directions of a member of the Police Department, for a period of not less than fourteen (14) days.

531.11.2. If the owner of such dog or dogs referred to in this section, cannot be determined or located, then a member of the Police Department shall otherwise confine said dog or dogs for a period of not less than fourteen days. If the owner of said dog is not determined, located or the dog claimed from confinement within said fourteen days, then the Chief of Police may order said dog destroyed. Provided, however, that all costs incurred for the confinement of a dog under this section shall be paid for by the owner or owners of said dog. If, however, after fourteen days confinement, the said dog is not claimed or the owner determined or located, then the cost of confinement shall be borne by the Town of Limon. If said dog is determined, by a veterinarian, to be suffering from rabies it shall be destroyed forthwith.

531.11.3. It shall be unlawful for any person knowing or suspecting a dog has rabies to allow such dog to be taken off his premises or beyond the limits of the Town without the written permission of the poundmaster. Every owner or other person, upon ascertaining a dog is rabid shall immediately notify the poundmaster or a policeman who shall either remove the dog to the pound or summarily destroy it.

531.12. Imported Dogs.

531.12.1. All dogs which are brought into the Town of Limon, shall be in compliance with the laws and rules of regulations of the State of Colorado regarding the handling of the animals, and shall have been vaccinated not less than thirty days, nor more than twelve months prior to importation. The metal tag denoting vaccination shall be firmly affixed to the collar or harness of the dog, and shall be evidence of compliance with this section.

531.12.2. If said imported dog remains in the Town of Limon more than thirty days, said dog shall be licensed in accordance with the provisions of this code. A certificate of vaccination issued by the licensed veterinarian to the owner or harborer of a dog within the current year by any municipality, county or state, shall be exchanged for a current inoculation and license tag of the Town of Limon and a transfer fee of $1.00 imposed thereon for a male or spayed female and $3.00 for an unspayed female.

531.13. Unlawful Possession of Licenses.

Only those persons who own or harbor a dog duly vaccinated and licensed in accordance with the provisions of this code shall be permitted to possess the licenses and tags provided for herein. No person may affix a tag evidencing vaccination and licensing, to the collar or harness of any dog, except the tag issued for that dog at the time of licensing.

531.14. Impoundment Generally.

It shall be the duty of every Police Officer or other dog enforcement officers to impound any dog which is not wearing a dog tag as herein provided and any dog which they reasonably feel to be in violation of any of the provisions of this code, whether such dog is wearing a dog tag or not. It shall be lawful for any Police Officer or other dog enforcement officer to go upon private property for the purpose of catching any dog to be impounded.

531.15. Establishment and Operation of Pound.

The Town shall have the right to establish a dog pound for the Town, to be operated by Town personnel, or at their election, they may, subject to the approval of the Board of Trustees, contract with a public or private person or organization for the operation of a dog pound for and on behalf of the Town.

531.16. Proceedings in Municipal Court Against Owner or Keeper of Impounded Dog.

If a dog is impounded, it shall be the duty of a Police Officer or other dog enforcement officer immediately to

institute proceedings in the Municipal Court on behalf of the Town against the owner, possessor or keeper of such dog if known, charging the owner, possessor or keeper with a violation of the appropriate section of this code. Nothing herein contained shall be construed as preventing the Police Officer from instituting a proceeding in the Municipal Court for violation of this code where there is no impoundment.

531.17. Notice to Owner or Keeper of Dog.

Not later than two (2) days after impoundment, the Police Officer shall cause to be posted in a conspicuous place at the Town Hall for three (3) consecutive days a notice of impoundment. The notice posted shall describe the dog, set forth the date of impoundment and set forth the location from which the dog was taken up. In the case of impoundment of a dog wearing the tag described in Section **531.7.** the Police Officer shall also use other reasonable means in a diligent effort to notify the owner, possessor or keeper of said dog.

531.18. Procedure for Release of Impounded Dog and/or Destruction of Dog.

If a complaint has been filed in the Municipal Court of the Town against the owner, possessor or keeper of any impounded dog for a violation of this code, then such dog shall not be released from impoundment except when requirements of this code are met. In addition to any penalties which may be provided for in this code for violation hereof, the Police Department shall require such owner, possessor or keeper to pay the fees herein provided for in Section **531.18.**

531.19. Disposal of Dog Whose Owner or Keeper cannot be Located.

If a complaint has not been filed in Municipal Court because the owner, possessor or keeper of an impounded dog is not known or cannot be located and such dog has not been claimed within five (5) days for an untagged dog and ten (10) days for a tagged dog from the date of impoundment, not counting the first day of impoundment, the dog may be disposed of in any humane manner prescribed by the Police Department or by persons so authorized to do so by the Mayor; provided, however, that in the case of a dog wearing a tag as described in Section **531.7.** when impounded, it may be disposed of only after ten (10) days of impoundment, not counting the first day of impoundment, and upon the Police Officer's certification of the diligent effort to notify the owner, possessor or keeper of the dog of its impoundment, and that same has been unsuccessful.

531.20. Redemption Fees.

Any owner, possessor or keeper of a dog desiring to redeem such dog from the pound shall pay the Town the sum of $15.00 as an impoundment fee together with the sum of $10.00 for each day of impoundment for cost of care and any and all license or rabies inoculation fees provided for in this code.

531.21. Interference with Police Department or Dog Enforcement Officer in Performing Duties.

It shall be unlawful for any person to interfere with, molest, hinder or obstruct the Police Department or other dog enforcement officer in the discharge of their official duties under this code.

531.22. Muzzling and Confinement.

531.22.1. Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the Mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises unless such dog shall have a muzzle of sufficient strength to prevent it from biting any person. Any unmuzzled dog running at large during the time of the proclamation shall be seized and impounded, unless noticeably infected with rabies and displaying vicious propensities, shall be killed by the poundmaster without notice to the Owner. Dogs impounded during the first two days of such proclamation shall, if claimed within five days, be released to the owner, unless infected with rabies, upon payment of impounding charges provided for in Section **531.18.** If unclaimed after that period, such dog may be summarily destroyed.

531.22.2. Vicious dogs and any dogs required to be confined under the provisions of this code shall be kept upon the premises of the owner of such place as to be least dangerous to persons lawfully upon said premises.

531.23. Vaccination.

It shall be unlawful for the owner of any dog to keep, maintain, or allow such dog to run at large unless it shall have been vaccinated by a licensed veterinary surgeon with anti-rabies vaccine, within one year preceding the date on which such dog is kept, maintained or allowed to run at large.

531.24. Female Dogs in Heat.

Any unspayed female dog, while in heat, shall be securely confined during such period in the owner's yard,

pen or other enclosure, which shall be so construed or situated as to prevent other dogs from gaining access thereto.

531.25. Notice or Knowledge of Violating Not Necessary for Prosecution of Owner or Keeper.

For the purpose of prosecution for violation of this code, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the dog in question that such dog was violating any of the provisions of this code at the time and place charged, it being the purpose and intent of this code to impose strict liability upon the owner, possessor or keeper of any dog for the action, conduct and condition of such dog.

531.26. Unlawful to Poison Dog.

It shall be unlawful for any person to poison any dog or to distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any dog within the Town of Limon.

531.27. Penalty for Violation.

Any person violating any provision of this code shall upon conviction, be punished by a fine of not more than Five Hundred Dollars ($500.00) for each offense.

531.28. Enforcement.

The provisions of this code shall be enforced by the Police of the Town of Limon or by a poundmaster appointed by the Town Manager.

(Amended on June 6, 1996 by Ordinance No. 398 and on June 6, 2002 by Ordinance No. 473, Amended in its entirety on September 6, 2007 by Ordinance No. 520.)

532 - Pertaining to Livestock

HISTORY: Added November 5, 1981 by Ordinance No. 279; cured and validated October 6, 1983 by Ordinance No. 300. Repealed by Ordinance No. 376 adopted on June 2, 1994. See Land Development Code.

540 - Health Regulations Pertaining to Business

541 - Trailer Ordinance

HISTORY: 1958 Municipal Code; Substantially amended March 3, 1966 by Ordinance No. 192. Repealed by Ordinance No. 376 adopted on June 2, 1994. See Land Development Code.

550 - Town Dump Regulations

HISTORY: Added January 7, 1972 by Ordinance No. 216 and amended August 5, 1993 by Ordinance No. 370; amended June 6, 1996 by Ordinance No. 398.

550.1. General Regulations.

550.1.1. Definitions.

For the purpose of section **550** the word "refuse" shall mean and include any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish, containers, boxes, glass, cans, bottles, garbage, waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material; all rubbish of any kind of nature whatsoever; and any other materials commonly known as rubbish or refuse of any kind or character or by any means known.

550.1.2. Accumulation of Refuse; Prohibited and Declared Nuisance.

Any accumulation of refuse on any premises, improved or unimproved, in the Town is prohibited and is hereby declared to be a nuisance.

550.1.3. Abatement.

Whenever the Board shall direct, the Town Manager or Town Clerk shall immediately thereafter notify any owner of property, his agent or any person having charge of such property, in writing, that an order has been made by the Board requiring the removal of any accumulated refuse from such property or premises within thirty (30) days after service of notice. If such property owner, agent or person having charge of such property shall not remove such refuse in accordance with the requirement of such order the Board may order that such refuse be removed by the Town Manager or other agent of the Board and assess the cost thereof against the property

or premises. The amount so assessed shall be a lien upon such property until the same is paid; provided, that in case of failure to pay such assessment within ten (10) days after the same shall be made, the Town Clerk shall cause a notice of such assessment to be given to the owner of such property by publishing in a newspaper in the Town for two (2) successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his property, and shall designate a time and place when the Board will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the Town Clerk shall certify such assessment to the county treasurer to be placed by him on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten (10%) per cent penalty to defray the cost of collection, as provided by the laws of the state.

550.1.4. Accumulation and Deposit of Garbage, Etc. Prohibited.

No person shall deposit or place any garbage, rubbish, waste material or ashes in such a manner that the same is or tends to become a nuisance or in such a manner endangers or tends to endanger the public health. No person having the occupancy, control or management of any premises shall cause or permit any garbage, waste material, rubbish or ashes to be accumulated thereon in such a manner that the same is or tends to become a nuisance or in such a manner as endangers or tends to endanger the public health. No person shall in any manner throw, place, scatter, deposit, or bury any garbage, rubbish, waste materials or ashes in or upon any public street, alley or other public place or upon his own premises or the premises of another.

550.1.5. Refuse not to be Thrown in Street, Vacant Lot, Etc.

No hay, straw, shavings, excelsior, paper or other combustible material, sod, lawn mowings, leaves, weeds, ashes, glass, bottles, broken glass, nails, tacks, wire, cans, rocks, stones or rubbish of any kind or nature whatsoever or any other refuse or material shall be thrown or swept into any street, sidewalks, gutter, sewer, intake, alley, vacant lot or other property.

550.1.6. Responsibility of Owners, Lessees, Etc. for Refuse on Premises.

It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Any such accumulation shall constitute a nuisance, and shall be nonconforming in the use of such premises.

550.1.7. Building Materials to be Removed from Construction Sites.

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence or sidewalk or building shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property.

550.1.8. Removal of Refuse from Business Required.

Discarded automobile parts, stoves, furniture, wool, hides, junk yard refuse and packing house or slaughterhouse refuse shall be removed periodically from such respective establishments by the proprietor sot that the premises are clean and orderly at all times. Silt and similar deposits from automobile wash racks shall be removed to the Town dump by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or inflammable which might endanger life or property shall be removed to such places as approved by the Chief of Police or the chief of the Fire Department; such removal to be handled by the establishments responsible therefor.

550.1.9. Accumulation and Use of Manure.

Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any purpose, or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant or agent.

550.1.10. Burning of Garbage and Waste Material.

No person shall set on fire or burn any garbage, rubbish or waste material or any hay, grass clippings or other combustible materials. Any such act is a nuisance because of smoke and odor.

550.2. Collection Regulations.

550.2.1. Definitions.

For the purpose of this section, the following words and phrases shall have the meanings hereinafter defined:

550.2.1.1. Garbage: Kitchen and table refuse and offal, swill and every accumulation of animal, vegetable and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowls, birds, fruits or vegetables not including dead animals and offal of slaughter-houses.

550.2.1.2. Waste Matter: Broken crockery, broken bottles, broken bricks, tin cans, pasteboard boxes, paper, straw, grass clippings, sawdust, packing materials, shavings, boxes and all noncombustible waste matter, ashes and all other residue of materials burned, and other refuse and waste material other than garbage.

550.2.2. Town to Provide Collection Service.

The Town or its agents, contractors or Town licensed operators shall furnish garbage, rubbish, waste matter and ashes collection service as provided in this article to all persons resident within the Town.

550.2.3. Contract.

The Board of Trustees may enter into an exclusive contract or agreement with any person for the collection and disposal of ashes, trash and garbage, or any portion thereof, throughout the Town, or it may at its discretion make provision for the collection and disposal of ashes, trash and garbage.

550.2.4. Collection of Garbage and Waste Matter by Other than Town Prohibited; Exceptions.

550.2.4.1. The Town, by and through its duly authorized agents, employees, contractors or Town licensed operators, shall be the sole agency for the collection and disposal of garbage and waste matter, and no person except such duly authorized agents, employees, contractors or Town licensed operators of the Town shall collect or dispose of any garbage or waste matter, whether his own or another's within the Town.

550.2.4.2. Nothing in this section shall relieve any contractor of the obligation of cleaning up premises after completion of his contract. Nothing in this section shall prevent an individual from hauling his own waste material, provided, that it is properly disposed of in conformity with all Town regulations, and that such individual is subject to all other provisions of the section.

550.2.5. Charges for Town Collection Service.

(Amended August 7, 1975 by Ordinance No. 235; amended January 7, 1982 by Ordinance No. 282; amended December 3, 2009 by Ordinance No. 535.)

550.2.5.1. The Board may, by resolution, establish charges for collection service under this section, prescribe the time and manner of payment of such charges and adopt measures designed to enforce the payment thereof such as, in their discretion, are necessary or desirable.

550.2.5.2. Such resolution, when adopted, shall be of the same force and effect as if incorporated in this section.

550.2.5.3. The amount of charges for garbage, rubbish, waste material and ashes collection service shall be a lien upon the property served until the same is paid. In case of failure to pay the established charges for garbage, rubbish, waste material and ashes collection service by the owner or person having the occupancy, control or management of any premises, within thirty (30) days after the time prescribed for payment of such charges by the Board, the Town Clerk shall cause a notice of such charge to be given to the owner of such property by publishing in a newspaper in the Town for two (2) successive weeks a notice to such property owner of the amount of charges assessed against his property, and that if such charges are not paid within ten (10) days thereafter, the Town Clerk shall certify such charges as assessed to the county treasurer to be placed by him on such tax list for the current year to be collected in the same manner as other taxes are collected, with a ten per cent (10%) penalty to defray the cost of collection, as provided by the laws of the State.

550.2.5.4. RATES FOR COLLECTION SERVICE.

(Amended December 2, 1999 by Ordinance No. 435; amended December 3, 2009 by Ordinance No. 535.)

550.2.5.4.1. Ground Level; Within 20 Feet; in Containers. The rates for collection and disposal of refuse placed for collection at ground level, not more than twenty (20) feet distant from the side of the street or alley from which collection is made, and in approved refuse containers shall be as follows:

550.2.5.4.1.1. Single Dwelling Units. For for single Dwelling Unit $15.21 per month, which charge shall be added to the monthly utility bill.

550.2.5.4.1.2. Multiple Unit Dwellings and Mobile Home Parks. For dwellings of two dwelling units or more or mobile home parks of two mobile home spaces or more, $7.67 per occupied dwelling unit or mobile home space per month if collection service is provided at one site at said multiple unit dwelling or mobile home park. The owner of a multiple unit dwelling or such mobile home park shall file with the Town Clerk on or before the fifteenth (15th) day of each month an occupancy report on a form provided by the Town. Any dwelling unit or mobile home space occupied for ten (10) or more days during a month shall be reported as occupied for that particular month. In the event the owner fails to file said report as herein required, the monthly fee shall be based upon 100% occupancy of the multiple unit dwelling or mobile home park for the month. In the event collection service is provided a multiple unit dwelling or mobile home park at more than one site, the fee shall be the same as that for single dwelling units for each occupied dwelling unit or mobile home space. Said charges shall be added to the monthly water bill. Any mobile home park consisting of only one mobile home space shall be deemed a single dwelling unit for the purposes of this code.

550.2.5.4.1.3. Commercial for each business location, other than mobile home parks and multiple unit dwellings. $26.49 per month or $4.66 per each dumpster collected, whichever amount is larger. An additional fee may be imposed by the Town Manager in an amount deemed by him to cover the cost of any extra service rendered because of the lack of the use of a dumpster(s) at the location. The Town Manager's decision may be appealed to the Board of Trustees. Upon fifteen (15) days notice, the fee determined by the Town Manager may be modified as circumstances warrant. Said charges shall be added to the monthly utility bill.

550.2.5.4.1.3.1. Special Commercial Locations. Should the Town Manager determine that a commercial location is not suitable for collection in a dumpster, the Town Manager may identify the location as a Special Commercial Location and allow collection by polycart. For each Special Commercial Location $26.50 per month or $2.07 per polycart emptied shall be collected, whichever amount is larger.

550.2.5.4.1.4. Multiple Business Buildings. For multiple business buildings, $18.72 per occupied business unit per month if collection service is provided at one site at said multiple business building. The owner of the building shall comply with the reporting requirements provided in section **550.2.5.4.1.3.** Said charge shall be added to the monthly utility bill.

550.2.5.4.2. Other than Ground Level; More than 20 Feet and not in Containers. Where the collection of refuse from other than ground level, from more than twenty (20) feet from the side of the street or alley, or not in approved containers, is accepted by the Town Manager, the fee shall be that of section **550.2.5.4.1.** plus a fee set by the Town Manager, subject to appeal to the Board of Trustees, which shall be deemed to cover the cost of the extra service rendered. Said charges shall be added to the monthly utility bill.

550.2.5.4.3. On an annual basis. These rates shall be adjusted by the amount of the previous year's Denver-Boulder Consumer Price Index with no further action of the Board of Trustees. The annual adjustment will take place in the January billing beginning in 2011.

550.2.5.4.4. Exemptions. The Board of Trustees of the Town of Limon has determined that exemptions should be made to the charges set forth in Section **550.2.5.4.**

(Amended on September 7, 2000 by Ordinance No. 456; Amended December 3, 2009 by Ordinance No. 535.)

550.2.5.4.4.1. The Board of Trustees of the Town of Limon has determined that due to the level of service to the community combined with the relative low rate of trash produced that church buildings within the Town of Limon shall be exempt from the charges set forth in Section **550.2.5.4.**. This exemption does not, however, apply to other church owned properties including parsonages.

(Amended December 3, 2009 by Ordinance No. 535.)

550.2.5.4.4.2. The Board of Trustees of the Town of Limon has determined that due to past and present cooperative efforts that the Colorado Department of Transportation shall be exempt from the charges set forth in Section **550.2.5.4.**

(Amended December 3, 2009 by Ordinance No. 535.)

550.2.6. Disposition and Use of Funds.

All funds collected by the Town for collection service under this section shall be credited to a fund to be known as the "Garbage and Rubbish Collection System Fund", the proceeds of which shall be used to defray expenses, such as the furnishing and maintaining of necessary equipment and payment of persons employed in the service. agents, contractors or Town licensed operators.

550.2.7. Collection of Tree Trimmings and Hedge Cuttings.

Any person desiring to place tree trimmings or hedge cuttings for collection shall cause the same to be cut not

more than five (5) feet in length and eighteen (18) inches in diameter. He shall place the same for collection in the same manner and times provided for the collection of garbage.

550.2.8. Collection of Dead Animals.

550.2.8.1. Dead animals not in excess of one hundred (100) pounds will be picked up by the collectors under this section on regular designated days of collection, but in no event shall the person having such dead animal allow it to remain undisposed of for a period longer than twelve (12) hours. In the event a dead animal must be disposed of on a day other than the regularly designated collection day, the Town Clerk shall be notified between 8:00 a.m. and 4:00 p.m.

550.2.8.2. Dead animals in excess of one hundred (100) pounds will be removed by the collectors at the owner's own expense, upon the payment of a fee as set by resolution of the Board. In no event shall a dead animal remain undisposed of for a period longer than twelve (12) hours. The Town will not pick up dead animals from places making a business of treating, handling or disposing of animals.

550.2.8.3. Dead animals of any weight shall not be placed in containers.

550.2.9. Unauthorized Molesting, Removal of Garbage, Containers Prohibited.

No person shall molest, remove, handle or otherwise disturb any garbage or refuse containers or contents for servicing by the collectors; provided, that this section does not apply to the owner, occupant, lessee or tenant of the residence or dwelling so placing the containers and contents.

550.2.10. Promulgation of Rules and Regulations by Board of Trustees.

The Board shall by resolution, promulgate rules and regulations relating to the manner of preparing and accumulating garbage, rubbish, waste material and ashes for collection; the type and kind of containers to be used for such accumulation; the manner of use of and care for such containers; and such other rules and regulations as, in their discretion, are necessary or desirable in the interest of maintaining efficiency and sanitary conditions in the garbage, rubbish, waste material and ashes collection system and service within the Town; and such resolutions when adopted shall be of the same force and effect as if incorporated in this section, and prior regulations, not inconsistent with this code, are hereby approved and ratified.

550.2.10.1. Refuse Containers. Until further action by the Board, refuse containers shall be provided as follows:

550.2.10.1.1. Residential Container Requirements. Refuse containers shall be provided by the owner, tenant, lessee, or occupant of the premises. Said containers shall be maintained in a clean, neat and sanitary condition at all times. Any container that does not conform to the provisions of this section, or the following section when applicable, or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof, shall be promptly replaced upon notice. The Town Manager shall have the authority to refuse collection services for failure to comply herewith.

550.2.10.1.2. Commercial Container Requirements After December 31, 1983. Commercial containers shall comply with the requirements provided in section **550.1.** After December 31, 1983, all commercial containers shall be the dumpster type container, or the equivalent thereof, unless said requirement is waived by the Town Manager because of the amount of refuse collected at a commercial location. In that event, the commercial container shall be the 90 gallon Poly Kart type compatible with the Town's refuse disposal equipment.

550.2.10.2. Collection Practices.

550.2.10.2.1. Frequency of Collection. Refuse shall be collected at least once each week, unless emergency circumstances prevent said collection. Where necessary to protect the public health, the Town Manager shall have the authority to require that more frequent collections be made.

550.2.10.2.2. Limitation on Quantity.

550.2.10.2.2.1. Residential. The Town Manager shall collect a reasonable accumulation of refuse of each family during a collection period for the standard charge.

550.2.10.2.2.2. Commercial. The Town Manager shall collect a reasonable accumulation during the collection period for the stated charge. The Town Manager shall have the authority to refuse to collect unreasonable amounts or to make an additional charge for such amounts.

550.2.11. Enforcement of Section.

The Town Manager shall have charge and supervision of the garbage, rubbish, waste material and ashes collection system. He is empowered to employ

and direct all assistants, laborers, agents, contractors, employees and Town licensed operators in the operation of the service. He shall enforce the terms of this section and the various rules and regulations promulgated hereunder from time to time. He shall be accountable to the Mayor and Board in all matters pertaining to the exercise of his powers and duties.

550.3. Weeds Regulations.

550.3.1. Growth and Accumulation on Premises and Adjoining Sidewalks and Alleys Prohibited.

No owner of any lot, block or parcel of ground within the Town, nor any tenant or agent in charge thereof, shall allow or permit weeds to grow, or remain when grown, on such lot, block or parcel of ground, or on or along any sidewalk adjoining the same, or in the alley behind the same, but such weeds shall be cut close to the ground and kept so cut.

550.3.2. Abatement by Town.

If any owner, tenant or agent in charge shall fail to cut weeds, as required by this section, within five (5) days after being notified to do so by the Town Clerk or Town Manager, by registered or certified mail, the Board may direct that the weeds be cut by an employee of the Town and charge the cost thereof to such owner, tenant or agent in charge, together with five percent (5%) additional for inspection and other incidentals.

550.3.3. Collection of Costs of Abatement by Town.

In the event the weeds on any lot, block or parcel of ground, or along the sidewalk adjoining the same or the alley behind the same, are cut by order of the Board, the whole cost of cutting such weeds, together with five per cent (5%) for inspection and other incidentals, shall be paid to the Town Clerk within thirty (30) days after mailing by the Town Clerk to the owner of such lot, block or parcel of ground, by registered or certified mail, notice of the assessment of such cost. Failure to pay such assessment within such period of thirty days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time, after such failure to so pay the same, within thirty (30) days, by the Town Clerk to the county treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty to defray the cost of collection.

550.4. Refuse Disposal Sites.

550.4.1. Definitions. For the purpose of each and every provision of this section, the following definitions of terms shall apply:

550.4.1.1. Refuse Disposal Site: any location designated by the Board of the Town of Limon where any approved final treatment utilization, processing or depository of solid wastes occurs.

550.4.1.2. Sanitary Landfill: the active portion of the landfill site where refuse is being dumped, compacted, and covered.

550.4.1.3. Disposal: the processing of solid wastes by sanitary landfill, by incinerating, by composting, by grinding or any other equivalent sanitary method.

550.4.2. Requirements for Establishing Refuse Disposal Sites.

Any refuse disposal site to be designated by the Board as a Town of Limon disposal site shall meet the following requirements:

550.4.2.1. The proposed site shall meet and comply with the zoning regulations applicable thereto.

550.4.2.2. The site shall have been approved and comply with the rules and regulations adopted by the Town or County Health Department.

550.4.2.3. In the event the proposed site is located other than in Lincoln County, it shall have been approved and comply with the rules and regulations of the county or regional governmental agency performing functions corresponding to those of the County Health Department.

550.4.2.4. The site shall have been approved and meet the rules and regulations, if any, adopted by the county commissioners.

550.4.2.5. The plans and specifications of said site must be submitted and approved by the Board.

550.4.3. Minimum Operating Standards.

Any refuse disposal facility which has been approved and designated as a Town of Limon disposal site shall at all times during which the same is so designated be operated and maintained according to the following minimum operating and maintenance standards:

550.4.3.1. There shall be no pooling of water on the ground surface anywhere upon said refuse disposal sites and no drainage or seepage from said site shall be allowed to pollute any surface or ground water or stream.

550.4.3.2. Roadways within the refuse disposal site leading to and from the sanitary landfill shall be constructed and maintained in order to permit a year around access by vehicles and equipment whenever the sanitary landfill is open for disposal of refuse. The construction and maintenance of said access roads shall be the sole responsibility of the operator.

550.4.3.3. Scattered material shall be collected and disposed of in a satisfactory manner at least once during each week.

550.4.3.4. Rubble or bulky items shall be disposed of in such a manner to prevent unsightliness or any unsanitary condition or hazard.

550.4.3.5. Dust shall be controlled in such a manner that the same does not create a nuisance, hazard or danger to persons using or employed at said site, or to adjacent properties.

550.4.3.6. Adequate measures shall be applied to control files, mosquitoes, rats, or other rodents or vermin.

550.4.3.7. Access to the landfill site shall be limited to the authorized hours of operation.

550.4.3.8. All refuse shall be compacted and covered with a material that is free of putrescible material and large objects, and shall be suitable for forming a tight seal when compacted.

550.4.4. Town Shall Supervise Refuse Sites.

The Town Manager in addition to the authorized agent of the County Health Department or county commissioners, shall regularly supervise and inspect the operation and maintenance of all Town of Limon refuse disposal sites and keep a log of all inspections performed. He shall inform the operator of any defects in the manner of operating or maintaining his site. He shall receive and investigate complaints operating or maintaining his site. He shall receive and investigate complaints made concerning the operation and maintenance of all refuse sites and notify the respective operators thereof, and supervise all corrective steps that shall be taken by said operators.

550.4.5. Rates.

550.4.5.1. All disposal rates charged at any Town of Limon refuse disposal site shall be fixed and approved by the Board of Trustees. Any change or amendment of said rates shall be made only upon approval of the Board. The dumping rates to be charged at each designated site shall take into consideration the cost of operating the said site.

550.4.5.2. No operator shall allow any hauler or any other user wishing to deposit refuse at said site a discount, rebate or any other form of kickback, and shall uniformly charge all users and haulers the applicable rate as determined by the Board.

550.4.6. Operators Shall Enter Into an Agreement.

All operators of the Town of Limon refuse disposal sites shall enter into an operation and maintenance agreement with the Board which shall contain among other things, the following: the rates to be charged at the site; the hours of operation; the days during which the site shall be open to all members of the public; a description of the site; liability insurance; the obligations of the operator with respect to providing the maintaining equipment, employees, erection of signs, maintenance of drainage, and roads throughout the site. The agreement shall be for an indefinite term and subject to cancellation by either party with sixty (60) days notice, provided however, that in the event of an operator's failure to comply with the minimum operating standards or any other provision of this section, the Town shall have the right to suspend or revoke its designation as a Town of Limon refuse disposal site.

550.4.7. Application for Operating A Town Refuse Disposal Site.

550.4.7.1. Any person wishing to operate and maintain a Town of Limon disposal site shall submit a written request therefor to the Board which shall contain at least the following:

- Name.
- Address.
- Financial Statement.
- Previous experience in the operation and maintenance of a refuse disposal site.
- Description of the site.
- All matters required in this chapter.

550.4.7.2. Upon satisfactory proof having been furnished to the Board that all the conditions for the establishment and operation of a effuse disposal site as herein contained have been met, the site proposed for designation as a Town of Limon refuse disposal site may thereafter be designated as such.

550.4.8. Duration of Designation.

The designation of the refuse site shall be for an indefinite duration subject, however, to the operator complying with the requirements of this chapter.

550.4.9. Authority to Enter Agreement.

The Town Manager is hereby empowered and authorized to enter into agreements with the County Commissioners of Lincoln County to effectuate the management of the Town's disposal and collection dump according to state law, and he shall apply, if deemed necessary, for all Certificates of Designation or other administrative requirements as necessary.

550.4.10. Hazardous Waste Disposal.

No person exempt from regulation of hazardous waste disposal under state law shall bury or otherwise dispose of any hazardous waste (as defined by state law) upon property in the Town of Limon or owned by the Town of Limon.

(added January 6, 1983 by Ordinance No. 292)

550.5. Penalty for Violation.

It is unlawful for any person to violate any of the provisions of this code and any such violation shall be punishable by a fine of not more than Five Hundred Dollars ($500.00). Each day that such violation shall be allowed to continue shall constitute a separate and distinct offense.

(amended January 6, 1983 by Ordinance No. 292; amended January 2, 1997 by Ordinance No. 411))

560 – Drilling and Pumping of Crude Oil, Natural Gas, or Other Crude Petroleum Product Prohibited

HISTORY: Added May 4, 1999 by Ordinance No. 429.

560.1. It shall be unlawful for any person or entity to drill for, pump, or otherwise remove from subsurface property located within the Town limits any crude oil, natural gas, or other crude petroleum product taken from subsurface property in its natural state or condition.

560.2. Penalty.

Any person or entity found to be in violation of this code shall be subject to immediate injunctive enforcement remedies available by the law to the Town, including a Cease and Desist Order, and shall further be subject to a fine not to exceed Five Hundred Dollars ($500.00) for each day that the violation exists or continues.

600 - OFFENSES

610 - Children

611 - Offenses Affecting Children

HISTORY: 1958 Municipal Code

611.1. CURFEW - MINORS UNDER EIGHTEEN YEARS OF AGE.

(Added November 3, 1988 by Ordinance No. 329; Amended June 6, 1996 by Ordinance No. 399; Amended March 16, 2000 by Ordinance No. 439)

611.1. Definitions. As used in this code, the following words shall have the necessary stated meanings:

611.1.1.1."Public place" shall mean a place to which the public or a substantial number of the public has access, including, but not necessarily limited to, any street, alley, road, highway, sidewalk, automobile parking lot, school, place of amusement, park, playground, and public building or facility.

611.1.1.2."Loiter or loitering" means to be dilatory, to stand idly around, to linger, delay, or wander about, or to remain, abide, or tarry in a public place.

611.1.2.Unlawful Acts.

It shall be unlawful for any person under the age of eighteen (18) years, or for any parent, guardian or other person having care or custody of any person under the age of eighteen (18) years to allow or permit such person, or for that person to loiter in or upon any public place within the Town of Limon subsequent to the hour of twelve o'clock (12:00) a.m., or prior to the hour of five o'clock (5:00) a.m., except for the purpose of lawful employment, or unless such person under the age of eighteen (18) years is accompanied by the parent or guardian of said person or unless such person is involved in or attending a school, religious, community, or athletic activity which includes adult sponsorship and supervision.

611.1.2.1. It shall further be considered and deemed to be an unlawful act for any person under the age of eighteen (18) years, or for any parent, guardian or other person having care or custody of any person under the age of eighteen (18) years to allow or permit such person, or for that person to be either the driver of or the passenger in any vehicle on a public road, street, highway, or public parking lot, within the time period as proscribed above if such person is not accompanied by his or her parent or guardian, or unless such person is either traveling to or from his or her place of lawful employment, or a school, religious, community, or athletic activity which included adult sponsorship and supervision.

611.1.2.2. Such person shall be deemed to be in violation of this code, as a loiterer, either on foot or in a vehicle, if such person, following the completion of his or her employment, school, religious, community, or athletic activity, has not taken the most direct route to his or her home within a reasonable amount of time following the completion of the event.

611.1.3.Effective Period. The provisions of this code shall be in effect and enforceable from, and including, May 1, 2000 and remain effective year round from that date.

611.1.4.PENALTIES FOR VIOLATION. Any person who shall violate any of the provisions of this code shall, upon conviction, be fined in a sum of not less that Twenty Five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00) upon said person's first violation hereunder. Any person who shall commit a second or subsequent violation of any of the provisions of this section within any calendar year shall, upon conviction, be fined in a sum of not less that Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00).

612 – Possession and Use of Tobacco by Minors.

HISTORY: Adopted November 7, 2002 by Ordinance No. 478.

612.1. POSSESSION PROHIBITED.

POSSESSION AND USE OF TOBACCO PRODUCTS BY MINORS. The following provisions shall be applicable to the prohibition and enforcement of the Town ordinance prohibiting the possession and use of tobacco products by minors:

612.1.1. It is the intent of this Ordinance to protect the public health, safety and welfare of the citizens of the Town of Limon, and particularly minor children, by prohibiting the possession and use of tobacco products by minors and by prohibiting the dissemination and furnishing of tobacco products to minors.

612.1.2. **Definitions.** As used in this Chapter, the following words or phrases are defined as follows:

612.1.2.1. "Minor: means any person under eighteen years of age.

612.1.2.2. "Smoking" means holding or carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind and includes the lighting of a pipe, cigar, or cigarette of any kind.

612.1.2.3. "Tobacco Product" means any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.

612.1.3. **Unlawful Possession or Use of Tobacco Products by Minors.**

612.1.3.1. It shall be unlawful for any minor to possess any tobacco product.

612.1.3.2. It shall be unlawful for any minor to consume or use, either by smoking, ingesting, absorbing, or chewing, any tobacco product.

612.1.3.3. It shall be unlawful for any minor to purchase, obtain, or attempt to purchase or obtain any tobacco product by misrepresentation of age or by any other method.

612.1.3.4. It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco product.

612.1.4. **Unlawful Furnishing of Tobacco Products to Minors.**

612.1.4.1. It shall be unlawful for any person to knowingly furnish to any minor, by gift, sale, or any other means, any tobacco product.

612.1.4.2. It shall be an affirmative defense to a prosecution under this Ordinance that the person furnishing the tobacco product was presented with and reasonably relied upon a document which identified the minor receiving the tobacco product as being eighteen (18) years of age or older.

612.1.5. **Retail Sale of Tobacco Products.**

612.1.5.1. It shall be unlawful for any business proprietor, manager, or other person in charge or control of a retail business of any kind to engage, employ, or permit any minor to sell tobacco products from such retail business.

612.1.5.2. It shall be unlawful for any business proprietor, manager, or other person in charge or control of a retail business of any kind to stock or display a tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of an adult business employee for each transaction. The provisions of this Ordinance shall not apply to stores possessing a valid retail liquor store license, as defined by the Colorado Liquor Code, issued by the Town, and shall not apply to vending machines meeting the requirements of this Ordinance.

612.1.6. **Vending Machines.**

1. It shall be unlawful for any person to sell or offer to sell any tobacco product by use of a vending machine or other coin-operated machine, except that tobacco products may be sold at retail, through vending machines only in places to which minors are not permitted access and such vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner.

2. It shall be unlawful for any person to possess or allow upon premises controlled by such person an operable vending machine containing any tobacco product unless such vending machine is located in a place where minors are not permitted access and such vending machine is under direct supervision of the owner of the establishment or an adult employee of the owner.

3. As used in this Ordinance, "under direct supervision" means the vending machine shall be in plain vision of the adult employee or owner during regular business hours.

612.1.7. **Penalties.**

612.1.7.1 Any person who shall violate any of the provisions of this section shall, upon conviction, be fined in a sum of not less than twenty five dollars ($25.00), nor more than five hundred dollars ($500.00) upon said person's first violation hereunder. Any person who shall commit a second or subsequent violation of any of the provisions of this section shall, upon conviction, be fined in a sum of not less than fifty dollars ($50.00), nor more than five hundred dollars.

625 - Cruelty to Animals

625.1. ABANDONMENT OF ANIMALS UNLAWFUL.

It shall be unlawful for any person, firm, or corporation, to abandon any animal, or to cause such to be done.

625.2. POISONING DOGS OR CATS.

It shall be unlawful for any person to poison any dog or dogs or cats or to distribute poison in any manner whatsoever with intent or for the purpose of poisoning any dog or dogs, or cats.

630 - Offenses Against Public Order and Safety

632 - Disturbance and Noise

632.1. DISTURBING THE PEACE; USING OFFENSIVE LANGUAGE.

It is unlawful for any person to disturb or engage in conduct which is likely to disturb the peace and quiet of others, the neighborhood, or the community by doing any of the following acts in a manner which, under non-mitigating circumstances, would be considered by a reasonable person of ordinary sensibilities, as a disturbance of or likely to disturb, the peace and quiet of others, the neighborhood or the community:

632.1.1. Make or allow to be made loud or unusual noises.

632.1.2. Engage in conduct inciting to violence or tending to provoke or excite others to break the peace.

632.1.3. Engage in conduct which causes consternation and alarm, annoyance or anger.

632.1.4. Assemble in a disorderly or boisterous group or gathering of persons in any public place.

632.1.5. Engage in boisterous, noisy, rude, raucous or riotous conduct.

632.1.6. Use profane, obscene, offensive, abusive, indecent, cursing, swearing or loud language.

632.1.7. Disrupt the good order of governmental, educational religious, or other lawful meetings or sessions.

632.1.8. Parade in a public thoroughfare.

632.1.9. Fail or refuse to disperse from a crowd or gathering of persons when so directed by a police officer.

632.2. PENALTY FOR VIOLATION.

Violation of this code shall, if convicted, be punished by a fine of not less than Ten Dollars ($10.00) nor not more than Five Hundred Dollars ($500.00).

635 - Offenses Affecting the Fire Department

635.1. HINDRANCE TO FIREMEN PROHIBITED.
It shall be unlawful for any person willfully to offer any hindrance to any police officer or fireman in the performance of his duty at a fire, or willfully, in any manner, to injure, deface, or destroy any engine or fire apparatus belonging to the Town of Limon.

635.2. CITIZENS REFUSAL TO OBEY OFFICIAL ORDERS AT FIRES.

635.2.1. Every person who shall be present at a fire shall be subject and obedient to the orders of the Fire Chief, assistant Fire Chief, or, in the absence of such chief and assistants, to the orders of the Mayor, the Chief of Police, or other police officer, in extinguishing the fire and removing and protecting property.

635.2.2. Every person who shall neglect, or refuse to obey such orders, shall be guilty of a violation hereof.

635.2.3. All officers shall have the power to arrest any person so neglecting or refusing to obey lawful orders as aforesaid and hold him in custody until after the fire shall have been extinguished, when he shall be taken before the Town Court to be dealt with according to law.

635.2.4. No person shall be bound by the provisions of this section unless the character of the officer be known or be made known to such person.

635.3. INTERFERENCE WITH DUTIES OF FIREMEN.

It shall be unlawful for any person to interfere with any of the members of the Fire Department in the discharge of their duties, or to hinder or prevent them, or any of them, from entering into or upon, or from inspecting any buildings, establishments, enclosures, or premises in the discharge of their duties.

635.4. TURNING IN FALSE ALARMS.

It shall be unlawful for any person negligently or maliciously to turn in or cause to be turned in any false alarm at any police station, at any fire alarm box, by telephone call, or by any other means whatsoever.

635.5. INTERFERENCE WITH FIRE HYDRANTS.

635.5.1. The fire hydrants in the Town of Limon shall be under the immediate charge of the Chief of the Fire Department.

635.5.2. It shall be unlawful for any person or persons, except by special permission of the said Chief, to interfere with any such hydrant, either by turning the water on or off at the same, or interfering therewith in any manner whatsoever.

635.5.3. Any person other than those specially permitted, as aforesaid, to operate and use any such hydrant in any way, shall be liable for any injury or damage thereto.

6. OBSTRUCTING FIRE HYDRANTS.

635.6.1. It shall be unlawful for any person in any manner to obstruct the use of any fire hydrant or fire alarm, box, or place any material in front thereof or within five feet from either side thereof.

635.6.2. Any and all material forming such an obstruction may be forthwith removed by any member of the Fire Department, and at the risk, cost, and expense of the owner or claimant thereof.

636 - Traffic Regulation and Offenses

HISTORY: Ordinance No. 166 not repealed by 1958 Municipal Code; Repealed and Reenacted March 7, 1963 by Ordinance No. 182; Repealed and Reenacted March 21, 1968 by Ordinance No. 201; Amended April 3, 1969 by Ordinance No. 207; Repealed and Reenacted January 6, 1972 by Ordinance No. 217; Repealed and Reenacted by Ordinance No. 229; Repealed and Reenacted February 2, 1978 by Ordinance No. 247; Amended December 7, 1995 by Ordinance No. 393; Amended September 4, 2003 by Ordinance No. 485.

636.1. ADOPTION.

Pursuant to Parts 1 and 2 of Article 16, Title 31, C.R.S. as amended, there is hereby adopted by reference Articles I and II, inclusive, of the 2003 edition of the "Model Traffic Code ," promulgated and published as such by the State Department of Transportation, Safety and Engineering Branch, 4201 E. Arkansas Ave., EP 700.,Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of the Code adopted herein is to provide a system of traffic regulations consistent with State law and generally conforming to similar regulations throughout the State and the Nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Clerk of the Town of Limon, Colorado, and may be inspected during regular business hours.

636.2. DELETIONS.

The 2003 edition of the Model Traffic Code is adopted as if set out at length save and except the following articles and/or sections which are declared to be inapplicable to this municipality and are therefore expressly deleted: NONE.

636.3. ADDITIONS OR MODIFICATIONS.

The said adopted Code is subject to the following additions or Modifications:

636.3.1. No U turns at the following intersections:

636.3.1.1.E Avenue and 3rd Street (Main Street)

636.3.2. Section 1205(2). of said adopted code is modified to read in its entirety as follows:

636.3.2.1. On those streets which have been approved by code and signed or marked for angle parking, no person shall stop, stand, or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings with the right-hand front wheel of the vehicle next to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

636.3.2.2. Angle parking shall not be permitted on any state highway unless the department of transportation has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

636.3.3.THROUGH STREETS. In accordance with the provisions of Section **636.3.2.1.** and when official signs are erected giving notice thereof, drivers of vehicles shall stop or yield as required by said signs at every intersection before entering any of the following streets or parts of streets:

NAME OF STREET	PORTION AFFECTED (terminal limits)
State Highway 24 Eastbound	West City Limit at "K" Ave. to City Limit at First Ave.
State Highway 24 Eastbound	City Limit at approximately 1,000 feet east of First Ave. to East City Limit at approximately 1,800 feet east of First Ave.
State Highway 24 Westbound	East City Limit at approximately 1,800 feet east of First Ave. to West City Limit at "K" Ave.

State Highway 24 Spur	South City Limit just north of State Highway 40 to North City Limit just south of Interstate Highway 70 West Limon Interchange
State Highway 71	South City Limit at Colorado St. to City Limit at approximately150 feet north of Immel St.
State Highway 71	City Limit at approximately 400 feet south of State Highway 24 just west of "J" Ave. extended to State Highway 24
State Highway 71 Northbound	From State High-(First Ave.) way 24 to North City Limit at 8th Ave.
State Highway 71 (First Ave.)	From North City Limit at 12th Southbound St. extended to State Highway 24
"E" Ave.	From 1st St. to 8th St.

636.3.4.SECTION 1102 DECREASED AND INCREASED SPEED LIMITS. In accordance with the provisions of section 1102 and when official signs are erected giving notice thereof, the speed limit shall be as specified for the following intersections or approaches thereto and upon the following streets or portions thereof:

NAME OF STREET	PORTION OF INTERSECTION AFFECTED	SPEED LIMIT (terminal)
8th St.	From “D” Ave. to “G” Ave.	15 MPH (between 7:30 AM and 4:00 PM)
9th St.	From “L” Ave. to “O” Ave.	15 MPH (between 7:30 AM and 4:00 PM)
“D” Ave.	From 8th St. to 9th St.	15 MPH (between 7:30 AM and 4:00 PM)
“E” Ave.	Between 7th St. to 8th St.	15 MPH (between 7:30 AM and 4:00 PM)
“F” Ave.	Between 7th St. and 8th St.	15 MPH (between 7:30 AM and 4:00 PM)
Interstate Highway 70	North City Limit just east of “D” Ave. to City Limit at State Highway 71	65 MPH
Interstate Highway 70	City Limit at 8th St. and Highway 70 Arkansas Ave. to South City Limit just North of State Highway 24	65 MPH
State Highway 24	West City Limit at “K” Ave. Eastbound To City Limit at First Ave.	35 MPH
State Highway 24 Eastbound	City Limit at approximately 1,000 feet east of First Ave. to East City Limit at approximately 1,800 feet east of First Ave.	35 MPH

State Highway 24 Westbound	East City Limit of approximately 1,800 feet east of First Ave. to West City Limit at "K" Ave.	35 MPH
State Highway 24 Spur	South City Limit just north of State Highway 40 to North City Limit just south of Interstate Highway 70 West Limon Interchange	35 MPH
State Highway 71	South City Limit at Colorado St. to City Limit at approximately 150 feet north of Immel St.	35 MPH
State Highway 71	City Limit at approximately 400 feet south of State Highway 24 just west of "J" Ave. Extended, to State Highway 24	35 MPH
State Highway 71 Northbound	From State Highway 24 to (First Ave.) 4th St.	35 MPH
State Highway 71 Northbound	From 4th St. to North City (First Ave.) Limit At 8th St.	45 MPH
State Highway 71 Southbound	From North City Limit at (First Ave.) 12th St. Extended to 4th St.	45 MPH
State Highway 71 Southbound	From 4th St. to State (First Ave.) Highway 24	35 MPH

(Amended January 2, 1997 by Ordinance No. 411; Amended February 2, 2006 by Ordinance No. 513.)

636.3.5.Section 1101(1). Basic Rule: No person shall drive a vehicle on a street or highway within this municipality at a speed greater than is reasonable and prudent under the conditions existing, and in no event greater than a posted speed limit as established pursuant to the provisions of section 1101 or section 1102.

636.3.6.Section 1101(2). Basic Rule: Except when a special hazard exists that requires lower speed, and except as otherwise provided herein, the following speeds shall be lawful:

636.3.6.1. Section 1101(4) Any speed not in excess of a posted speed limit as established pursuant to the provisions of section 1101 or section 1102. Any speed in excess of a posted speed limit as established pursuant to the provisions of section 1101 or section 1102 shall be considered maximum lawful speed limits and not prima facie speed limits.

636.4. PENALTY FOR VIOLATION.

(Amended January 2, 1997 by Ordinance No. 411; Amended October 2, 2008 by Ordinance No. 525.))

It shall be unlawful for any person to violate any of the provisions stated or adopted in section **636**. Where applicable, the fine shall be the same as and shall not exceed such fine as imposed by the State of Colorado, effective October 1, 2008, for similar traffic offenses or infractions committed on a state highway or road. A list of fines to be assessed for those traffic related offenses that are under the jurisdiction of the Limon Municipal Court is attached hereto as Exhibit A. A Schedule of Fines, composed of those traffic offenses and fines set forth in Exhibit A, shall be posted in the vicinity of where the violator is to pay his or her fine setting forth the maximum fine for each offense. This provision does not impede the Municipal Court Judge's discretion as to the suspension of fines for circumstances deemed relevant by the Judge. As to any violation of section **636** not described in the Schedule of Fines, any person convicted of such a violation shall be punished by a fine not exceeding Five Hundred Dollars ($500.00)."

636.5. APPLICATION.

This code shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or public place or public parking area, either within or

outside the corporate limits of this municipality, the use of which this municipality has jurisdiction and authority to regulate. The provisions of section 1401, 1402, 1413, and part 16 of the adopted Model Traffic Code respectively concerning reckless driving, careless driving, unauthorized devices, eluding office, and accident investigation shall apply not only to public places and ways but also throughout this municipality.

636.6. INTERPRETATION.

636.6.1. This code shall be so interpreted and consrued as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic.

636.6.2. Section headings of section **636** and adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

637 - Heavy Vehicle Routes

(Amended on June 6, 1996 by Ordinance No. 398)

637.1. DEFINITIONS.

For the purposes of this code the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

637.1.1.Town is the Town of Limon, Colorado.

637.1.2.Person is any person, firm, partnership, association, corporation, company or organization of any kind.

637.1.3.Heavy Vehicle is any vehicle designed or operated for the transportation of persons or property, and whose body weight or combined body and load weight exceeds Ten Thousand (10,000) pounds.

637.1.4.Heavy Vehicle Route is a way over certain streets, as designated herein, over and along which heavy vehicles must operate.

637.2. APPLICATION OF REGULATION.

637.2.1. All heavy vehicles within the Town shall be operated only over and along the heavy vehicle routes herein established.

637.2.2.EXCEPTIONS. This code shall not prohibit:

637.2.2.1.OPERATION ON STREET OF DESTINATION. The operation of heavy vehicles upon any street where necessary to the conduct of business at a destination point between the hours of 8:00 a.m. and 6:00 p.m., provided streets upon which such traffic is permitted are used until reaching the permitted street intersection nearest the destination point.

637.2.2.2.EMERGENCY VEHICLES. The operation of emergency vehicles upon any street in the Town.

637.2.2.3.PUBLIC UTILITIES. The operation of heavy vehicles owned or operated by the Town, public utilities, any contractor or material man, while engaged in the repair, maintenance, public construction, or operation of streets, street improvements, or public utilities within the Town.

637.2.2.4.DETOURED HEAVY VEHICLES. The operation of heavy vehicles upon any officially established detour.

637.2.2.5. The operation of recreational vehicles upon any street in the Town, except that recreational vehicles are not exempted from the provisions of Section **637.4.** Parking of Heavy Vehicles.

637.3. HEAVY VEHICLE ROUTES ESTABLISHED.

There is hereby established within the Town the heavy vehicle routes indicated on the attached Heavy Vehicle Route Map incorporated herein and made a part hereof by reference.

637.4. PARKING OF HEAVY VEHICLES.

No heavy vehicle shall be parked or stored upon any part of a street or alley which is adjacent to or contained within any residential zoning district created by the Town's zoning ordinance(s) or code(s), except for the conduct of business as described in Section **637.2.2.** herein and said business parking shall not be for more than one hundred twenty (120) minutes, not including the time during which such heavy vehicle is actually being loaded or unloaded.

637.5. ENFORCEMENT.

637.5.1.CLERK MAINTAINS MAPS.

The Town Clerk shall keep and maintain accurate maps setting out heavy vehicle routes upon which heavy vehicle traffic is permitted and streets and alleys upon which heavy vehicle parking is permitted; the maps shall be kept on file in the office of the Town Clerk and shall be available to the public.

637.5.2.CHIEF OF POLICE MAINTAINS SIGNS.

The Chief of Police of the Town shall cause streets upon which heavy vehicle is prohibited to be clearly sign-posted, in accordance with the Model Traffic Code, to give notice that this code is in effect.

637.5.2.1. FAILURE TO POST.

No person shall be charged with violating the provisions of this code by reason of operating or parking a heavy vehicle upon a street wherein heavy vehicle travel or parking is prohibited unless appropriate signs are posted on such street.

637.5.3.WEIGH IN.

Any police officer of the Town of Limon shall have the authority to require any person driving or in control of any heavy vehicle not proceeding over a heavy vehicle route or parked on a prohibited street or alley to proceed to any public or private scale available for the purpose of weighing and determining whether this code has been complied with.

637.6. PENALTY FOR VIOLATION.

Any person, firm, or corporation violating any of the provisions of this code, upon conviction thereof, shall be fined in an amount not exceeding Five Hundred Dollars ($500.00). Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

(Added February 7, 1985 by Ordinance No. 307; amended January 2, 1997 by Ordinance No. 411; amended May 4, 1999 by Ordinance No. 428)

638 - Angle Parking

(Added on August 1, 1996 by Ordinance No. 400)

638.1. Angle Parking.

Shall be permitted on the following streets or portions of streets:

638.1.1. Both sides of "E" Avenue from Civic Center Drive to 4th Street.

638.1.2. The west side of "D" Avenue from Main Street (U.S. 40/287) to 2nd Street. Parallel parking will be allowed with signage between 8 p.m. and 8 a.m.

638.1.3. The west side of "D" Avenue from 4th Street to the alley between Lots 3 and 4 of Block 21 of Meehan's Addition to the Town of Limon.

638.1.4. The west side of "C" Avenue from the alley between Lots 1 and 18, Block 29, Original Town of Limon to 1st Street.

638.1.5. The west side of "C" Avenue between Main Street (U.S. 40/287) and the alley located between Lots 3 and 4 of Block 20 of Meehan's Addition to the Town of Limon.

638.1.6. The east side of "C" Avenue from Main Street (U.S. 40/287) north for 60 feet.

638.1.7. The east side of "F" Avenue between 1st Street and 2nd Street.

638.1.8. The east side of "F" Avenue between 2nd Street and the alley located between Lots 12 and

13 in Block 23 of Meehan's Addition to the Town of Limon.

638.1.9. Both sides of 2nd Street between "D" Avenue and "F" Avenue.

638.1.10. Both sides of Civic Center Drive.

638.1.11. The west side of "G" Avenue, from the drainage way in the 6th Street right-of-way, north for 200 feet.

638.1.12. The west side of "H" Avenue from 4th Street to 5th Street.

638.1.13. The east side of "H" Avenue from 4th Street north for 100 feet.

638.1.14. North side of 4th Street from "H" Avenue east for 76 feet.

638.1.15. The west side of "J" Avenue from Main Street (U.S. 40/287) north 105 feet.

638.1.16. The north side of 6th Street from "K" Avenue to the alley located between Lots 6 and 7, Block 42, Pershings Addition to the Town of Limon.

638.1.17. The north side of Circle Lane between "L" Avenue and the alley located between Lot 18, Block 2 and Block 3, First Baskett Hills Addition to the Town of Limon.

638.1.18. The north side of 4th Street between H Avenue and I Avenue.

638.1.19. The north side of 4th Street between "I" Avenue and the alley between Lots 6 and 7, Block 3, Nuttings Addition to the Town of Limon.

638.1.20. Both sides of 6th Street between "D" Avenue and "E" Avenue.

638.1.21. The north side of 8th Street from "F" Avenue east to the alley east of Christenson-Newsom Activities Building except when parking is prohibited by official language.

(Amended on November 5, 1998 by Ordinance No. 426)

638.1.22. The west side of California Avenue from a point 57 feet north of Main Street (Highway 40/287) for 55 feet.

700 - BUSINESS AND TRADES

710 - Regulation of Canvassers and Solicitors

HISTORY: Ordinance No. 176, November 3, 1960; Repealed and reenacted September 1, 1966 by Ordinance No. 196

710.1. PERMIT AND LICENSE REQUIRED.

It shall be unlawful for any solicitor or canvasser as defined in Section **710.2.** of this ordinance to engage in such business within the corporate limits of the Town of Limon without first obtaining a permit and license therefore in compliance with the provisions of this code.

710.2. DEFINITION.

A canvasser or solicitor is defined as any individual, whether resident of the Town of Limon or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, ware and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided that such definition shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

710.3. APPLICATION.

Applicants for permit and license under this code must file with the Town Clerk a sworn application in writing (in duplicate) on a form to be furnished by the Town Clerk, which shall give the following information:

710.3.1. Name and description of the application;

710.3.2. Permanent home address and full local address of the applicant;

710.3.3.A brief description of the nature of the business and the goods to be sold;

710.3.4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;

710.3.5. The length of time for which the right to do business is desired;

710.3.6. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filled, and the proposed method of delivery.

710.3.7.A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be 2 inches by 2 inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

710.3.8. The fingerprints of the applicant and the names of at least two reliable property owners of the County of Lincoln, State of Colorado, who will certify as to the applicant's good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

710.3.9.A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore; and

710.3.10. A statement by a reputable physician of the Town of Limon, or other qualified doctor, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of contagious, infectious, or communicable disease.

710.3.10.1. At the time of filing the application, a fee of $2.00 shall be paid to the Town Clerk to cover the cost of investigation of the facts stated therein.

710.4. INVESTIGATION AND ISSUANCE.

710.4.1. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he

deems necessary for the protection of the public good.

710.4.2. If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.

710.4.3. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the Town Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold there under, the amount of the fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

710.5. FEES.

710.5.1. The license fee which shall be $5.00 per day, $10.00 per week, $30.00 per month, $50.00 per year.

710.5.2. The annual fees herein provided shall be assessed on a calendar year basis and on or after July first the amount of such fee for annual license shall be one-half the amount stipulated above for the remainder of the year.

710.5.3. None of the license fees provided for by this ordinance shall be applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Mayor for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the Mayor may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Mayor shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed by this ordinance is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the Mayor shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by Section **710.5.1.** of this ordinance. Should the Mayor determine the gross sales measure of the fee to be fair basis, he may require the applicant to submit, either at the time of termination of applicant's business in the Town of Limon or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefore, provided that no additional fee during any open calendar year shall be required after the licensee shall have paid an amount equal to the annual license as prescribed in Section **710.5.1.** of this ordinance.

710.6. BOND.

Every applicant, not a resident of the Town of Limon, or who being a resident of the Town of Limon, represents a firm whose principal place of business is located outside the State of Colorado, shall file with the Town Clerk a surety bond, running to the Town in the amount of $1,000 with surety acceptable to and approved by the Mayor, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the Town of Limon and the statutes of the state of Colorado regulating and concerning the business of solicitor and guaranteeing to any citizen of the town of Limon that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing to any citizen of the town of Limon doing business with said solicitor, that the property purchased will be delivered according to the representations of said solicitor. Action on such bond may be brought in the name of the Town to the use or benefit of the aggrieved person.

710.7. BADGES.

The Town Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of ten feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

710.8. EXHIBITION OF LICENSE.

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

710.9. DUTY OF POLICE TO ENFORCE.

It shall be the duty of any police officer of the Town of Limon to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this ordinance against any person found to be violating the same.

710.10. RECORDS.

The Chief of Police shall report to the Town Clerk all convictions for violation of this code and the Town Clerk shall maintain a record for each license issued and record the reports of violation therein.

710.11. REVOCATION OF LICENSE.

710.11.1. Permits and licenses issued under the provisions of this code may be revoked by the Mayor of the Town of Limon after notice and hearing, for any of the following causes:

710.11.1.1. Fraud, misrepresentation, or false statement contained in the application for license;

710.11.1.2. Fraud, misrepresentation, or false statement made in the course of carrying on his business as solicitor or as canvasser;

710.11.1.3. Any violation of this code;

710.11.1.4. Conviction of any crime or misdemeanor involving moral turpitude; or

710.11.1.5. Conducting the business of soliciting, or of canvassing, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

710.11.2. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

710.12. APPEAL.

Any person aggrieved by the action of the Chief of Police or the Town Clerk in the denial of a permit or license as provided in Section **710.4.** or the action of the Mayor in the assessing of the fee as provided in Section **710.5.3.** shall have the right of appeal to the Town of Limon. Such appeal shall be taken by filing with the Board of Trustees, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Board shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided in Section **710.11.** of this ordinance for notice of hearing on revocation. The decision and order of the Board on such appeal shall be final and conclusive.

710.13. EXPIRATION OF LICENSE.

All annual licenses issued under the provisions of this ordinance shall expire on the 31st of December in the year when issued. Other than annual licenses shall expire on the date specified in the license.

710.14. PENALTY FOR VIOLATION.

Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not to exceed Five Hundred Dollars ($500.00) Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

(Amended January 2, 1997 by Ordinance No. 411)

720 - Taxation

721 - Telephone Companies

HISTORY: Adopted November 21, 1968 by Ordinance No. 206.

721.1. LEVY OF TAX.

There is hereby levied on and against telephone companies operating within the Town of Limon a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith within the Town of Limon and of supplying local exchange telephone service to the inhabitants of the Town. The amount of tax levied hereby shall be equal to 1 1/2 per cent of the gross revenues received by such company arising from the supplying, furnishing, distributing and selling of local exchange telephone service within the corporate limits of the Town of Limon, as now or hereafter established.

721.2. EFFECTIVE DATE.

The tax levied by this code shall commence on effective date of this code, and shall be due and payable quarterly to the Town Treasurer.

721.3. FILING STATEMENT AND PAYMENT OF TAX.

Within 45 days after the end of each calendar quarter after the effective date of the tax herein levied, each company subject to this code shall file with the Town Treasurer, in such form as the Treasurer may require, a statement showing the total gross receipts as prescribed in Section **721.1.** of this code during the preceding calendar quarter. Such statement shall be accompanied by payment to the Treasurer of the tax due for the period covered by the statement.

721.4. FAILURE TO PAY.

If any company subject to the provisions of this code shall fail to pay the taxes as herein provided, the full amount thereof shall be due and collected from such company, and the same together with an addition of ten percent of the amount of taxes due shall be and hereby is declared to be a debt due and owing from such company to the Town of Limon. The Town Attorney of the Town of Limon upon the direction of the Board of Trustees shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect the said debt in the name of the people of the State of Colorado.

721.5. PENALTY FOR VIOLATION.

If any officer, agent or manager of a company which is subject to the provisions of this code shall fail, neglect, or refuse to make or file any quarterly statement in the manner herein prescribed, the said officer, agent, manager, or person shall, on conviction thereof, be punished by a fine of not more than Five Hundred Dollars ($500.00), provided, that each day after said quarterly statement shall become delinquent during which the said officer, agent, manager or person shall so fail neglect, or refuse to make and file such statement shall be considered a separate and distinct offense.

(Amended January 2, 1997 by Ordinance No. 411)

721.6. INSPECTION OF RECORDS.

The Town of Limon, its officers, agents, or representatives shall have the right at all reasonable hours and times to examine the books and records of the companies which are subject to the provisions of this code and to make copies of the entries or contents thereof.

721.7. AGREEMENTS CANCELED.

All agreements between the Town of Limon and any company subject to this code relating to payment or the furnishing of free services in lieu of taxes are hereby canceled as of the effective date of this code. All other agreements, franchises and leases of any nature whatsoever are hereby canceled as of the effective date of this code.

722 - Telephone Utility Companies

HISTORY: Adopted October 7, 1976 by Ordinance No. 241.

722.1. LEVY OF TAX.

There is hereby levied on and against telephone utility company operating within the Town of Limon, (hereinafter called the "Town") a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith in the Town of Limon and of supplying local exchange telephone service to the inhabitants of the Town. The annual amount of tax levied hereby shall be equal to $3.60 per telephone account for which local exchange telephone service is provided within the corporate limits of the Town of Limon on the effective date as provided in Section **722.2.** and upon each anniversary of the effective date.

722.2. EFFECTIVE DATE.

The tax levied by this ordinance shall commence on November 15, 1976, and shall be due and payable in twelve (12) equal monthly installments with the first such installment due thirty (30) days after the effective date.

722.3. FILING STATEMENT.

722.3.1. Within thirty (30) days after the effective date as provided in Section **722.2.**, each telephone utility company subject to this code shall file with the Town Clerk, in such form as the Clerk may require, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the Town on the effective date.

722.3.2. Such statement shall be filed within thirty (30) days after each anniversary of the effective date showing such accounts on the anniversary date.

722.4. FAILURE TO PAY.

If any telephone utility company subject to the provisions of this code shall fail to pay the taxes as herein provided, the full amount thereof shall be due and collected from such company, and the same together with an addition of ten percent (10%) of the amount of taxes due shall be and hereby is declared to be a debt due and owing from such company to the Town. The Town Attorney of the Town upon direction of the Board of Trustees shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect the said debt in the name of the people of the Town of Limon, Colorado.

722.5. PENALTY FOR VIOLATION.

If any officer, agent or manager of a telephone utility company which is subject to the provisions of this code shall fail, neglect, or refuse to make or file the annual statement of accounts provided in Section 3, the said officer, agent, manager or person shall, on conviction thereof, be punished by a fine not more than Five Hundred Dollars ($500.00); provided, that each day after said statement shall become delinquent during which the said officer, agent, manager or person shall so fail, neglect, or refuse to make and file such statement shall be considered a separate and distinct offense.

(Amended January 2, 1997 by Ordinance No. 411)

722.6. INSPECTION OF RECORDS.

The Town, its officers, agents or representatives shall have the right at all reasonable hours and times to examine the books and records of the telephone utility company which are subject to the provisions of this code and to make copies of the entries or contents thereof.

722.7. LOCAL PURPOSE.

The tax herein provided is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this code be construed to mean that any telephone utility company is issued a franchise by the Town, and is subject to all standards for the use of streets and alleys as required or may be required by the Town, including repair of damage caused by the telephone utility company. The repair of damage shall, in no circumstance, be less than repair to a condition equal to the original condition before damages occurred.

722.8. TAX IN LIEU OF OTHER TAXES, ETC.

The tax herein provided shall be in lieu of all other payments by or fees and taxes on any telephone utility subject to the provisions of this code, other than ad valorem taxes, and in addition shall be in lieu of any free service furnished the Town by any said telephone utility.

723 - Sales and Use Tax

HISTORY: Adopted July 27, 1978 by Ordinance No. 251. Amended January 4, 1996 by Ordinance No. 395.

723.1. PURPOSE.

The purpose of this code is to impose a sales tax on the sale of tangible personal property at retail and the furnishing of services within the Town of Limon, Colorado (hereinafter "Limon" or "Town"), and a use tax on the privilege of using or consuming within the Town any construction and building materials and motor and other vehicles on which registration is required, purchased at retail, pursuant to Colorado Revised Statutes of 1973, Title 29, Article 2, as amended.

723.2. DEFINITIONS.

For the purpose of this code, the meanings of words herein contained shall be as defined in Colorado Revised Statutes of 1973, Section 39-26-102, as amended, and said definitions are incorporated herein.

723.3. SALES TAX LEVIED.

There is hereby levied and there shall be collected and paid a tax equal to two percent (2%) of gross receipts from all sales of tangible personal property at retail and the furnishing of services within the Town. The sales of tangible personal property and the furnishing of services taxable under this code shall be the same as those taxable pursuant to Colorado Revised Statutes of 1973, Section 39-26-104, as amended.

723.4. SALES TAX - NONAPPLICABILITY.

The Town's sales tax shall not apply to the sale of construction and building materials, as the term is used in Colorado Revised Statutes of 1973, Section 29-2-109, as amended, 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, including a Certificate of Use on a form provided by the Town, evidencing that a local use tax has been paid or is required to be paid.

723.5. SALES TAX COLLECTION AND SCHEDULES.

723.5.1. The collection, administration, and enforcement of this sales tax shall be performed by the Executive Director of the Department of Revenue of the State of Colorado (hereinafter the "Executive Director") in the same manner as the collection, administration, and enforcement of the Colorado state sales tax. The provisions of Colorado Revised Statutes of 1973, Title 39, Article 26, as amended, and all rules and regulations promulgated there under by the Executive Director shall govern the collection, administration, and enforcement of this sales tax.

723.5.2. The sales tax on individual sales levied by this code shall be collected in accordance with schedules set forth in a separate ordinance or code enacted by the Board of Trustees of Limon, or if no such separate ordinance or code is enacted, in accordance with schedules set forth in the rules and regulations promulgated by the Executive Director under Colorado Revised Statutes of 1973, Title 29, Article 2, or Title 39, Article 26, as amended. If any vendor, during any reporting period, shall collect as a sales tax under this code an amount in excess of two percent (2%) of his total taxable sales for that period, he shall remit to the Executive Director the full amount of this sales tax and also such excess.

723.6. SALES TAX EXEMPTIONS.

723.6.1. The sales of tangible personal property and the furnishing of services taxable under this code shall be subject to the exemptions from taxation specified in Colorado Revised Statutes of 1973, Section 39-26-114, as amended.

723.6.2. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from this sales tax when such sales meet both of the following conditions:

723.6.2.1. The purchaser is a nonresident of or has his principal place of business outside the limits of Limon; and

723.6.2.2. Such personal property is registered or required to be registered outside the limits of Limon under the laws of the State of Colorado.

723.6.3. The value of construction and building materials on which a use tax has previously been collected by an incorporated town, city or county shall be exempt from this sales tax if the materials are delivered by the retailer or his agent to a site within the limits of Limon.

723.7. SALES TAX - CREDIT FOR SALES OR USE TAXES PREVIOUSLY PAID TO ANOTHER MUNICIPALITY.

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 two percent (2%). A credit shall be granted against the Limon 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 two percent (2%).

723.8. SALES TAX GENERAL PROVISIONS.

8.1. All retail sales shall be considered consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of the Town or to a common carrier for delivery to a destination outside the limits of the Town.

723.8.2. Gross receipts from sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Colorado Revised Statutes of 1973, Title 39, Article 26, as amended, regardless of the place to which delivery is made.

723.8.3. In the event a retailer has no permanent place of business in Limon, or more than one place of business, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Colorado Revised Statutes of 1973, Title 39, Article 26, as amended, and by the rules and regulations promulgated there under by the Executive Director.

723.8.4. Gross receipts shall not include the state sales and use tax imposed by Colorado Revised Statutes of 1973, Title 39, Article 26, as amended.

723.9. SALES TAX VENDOR'S FEE.

The vendor shall be entitled, as collection agent for Limon, to withhold a collection fee in the amount of three and one-third percent (3 1/3%) from the total amount of the sales tax remitted by the vendor to the Executive Director each month. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the Executive Director, the vendor shall not be allowed to retain any amounts to cover his expense in collecting and remitting said tax, and an amount equivalent to the full three and one third percent (3 1/3%) shall be remitted to the Executive Director by any such delinquent vendor.

723.10. USE TAX LEVIED.

There is hereby levied and there shall be collected and paid a use tax upon the privilege of using or consuming within the Town, any construction and building materials, and motor and other vehicles on which registration is required, which are purchased at retail, in an amount equal to two percent (2%) of the retail cost thereof.

723.11. USE TAX EXEMPTIONS.

723.11.1. There shall be an exemption to the imposition of a use tax applicable as follows:

723.11.1.1. To the storage, use, or consumption of any tangible personal property, the sale of which is subject to a retail sales tax imposed by the Town;

723.11.1.2. To the storage, use, or consumption of any tangible personal property purchased for resale in the Town, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

723.11.1.3. To the storage, use, or consumption of tangible personal property brought into the Town by a non-resident thereof for his own storage, use, or consumption while temporarily within the Town; however, this exemption does not apply to the storage, use, or consumption of tangible personal property brought into the State of Colorado by a non-resident to be used in the conduct of a business in this State;

723.11.1.4. To the storage, use or consumption of tangible personal property by the United States government or the State of Colorado,

or its institutions or political subdivisions, in their governmental capacities only or by religious or charitable corporations in the conduct of their religious or charitable functions:

723.11.1.5. To the storage, use, or consumption 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;

723.11.1.6. To the storage, use, or consumption of tangible personal property and household effects acquired outside of the Town and brought into it by a non-resident acquiring residency;

723.11.1.7. To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a non-resident of Limon and he purchased the vehicle outside of Limon for use outside of Limon and actually so used it for a substantial and primary purpose of which it was acquired and he registered, titled, and licensed said motor vehicle outside of the Town;

723.11.1.8. To the use or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to July 27, 1978.

723.11.1.9. To the use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let, or entered into at any time prior to July 27, 1978.

723.11.1.10. To the use or consumption of any construction and building materials for which a building permit is issued after August 1, 1996 by any business that shows proof of a valid Town of Limon Sales Tax Account with the Colorado Department of Revenue.

(Added August 1, 1996 by Ordinance no. 301)

723.12. USE - TAX CREDIT FOR SALES OR USE TAXES PREVIOUSLY PAID TO ANOTHER MUNICIPALITY.

The Town's use tax shall not apply to the storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule municipality equal to or in excess of two percent (2%). A credit shall be granted against Limon's use tax with respect to a person's storage, use, or consumption in Limon of tangible personal property purchased by him in a previous statutory or home rule municipality. The amount of the credit shall be equal to the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his purchase or use of the property. The amount of the credit shall not exceed two percent (2%). It shall be the obligation of the person or entity claiming the credit to furnish receipts or other written proof of the tax paid by such person or entity to the previous statutory or home rule municipality.

723.13. MOTOR AND OTHER VEHICLE USE TAX COLLECTION.

723.13.1. The two percent (2%) use tax provided for herein shall be applicable to every motor vehicle for which registration is required by the laws of the State of Colorado, and 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 Department of Revenue of the State of Colorado or its authorized agents until any tax due upon the use, storage, or consumption thereof pursuant to this ordinance has been paid.

723.13.2. This use tax shall be collected by the authorized agent of the Department of Revenue of the State of Colorado in Lincoln County.

723.13.3. The proceeds of this use tax shall be paid to the Town periodically in accordance with an agreement entered into by and between Limon and the authorized Lincoln County Agent of the Department of Revenue of the State of Colorado.

723.14. CONSTRUCTION AND BUILDING MATERIALS USE TAX COLLECTION.

723.14.1. The collection of this use tax for construction and building materials shall be administered by the Board of Trustees of Limon or its authorized representatives.

723.14.2. Any person, partnership, or corporation who shall build, construct, or improve any building, dwelling or other structure or improvement to realty whatsoever within the Town of Limon, shall upon application for a building permit, pay as a deposit for payment of the tax levied by this ordinance an amount equal to two percent (2%) of fifty percent (50%) of the estimated cost of the improvement, or two percent (2%) of fifty percent (50%) of the total contract price, if there is a contract for the building construction or improvement; provided, however, that if the estimated cost of the improvement or the total contract price is in excess of Two Hundred Thousand Dollars ($200,000.00) the Board of Trustees, or their designated agents, in their discretion and upon proper application, may authorize a waiver of said deposit and accept the payment of said tax on a monthly, quarterly or other basis, based upon actual purchases of materials, supplies and equipment for which such tax may be due, subject to such rules and regulations as the Board may from time to time adopt. In all cases where the deposit required by the provisions of this Section is made, if it is determined at the time of the completion of the building, dwelling or other structure of improvement 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 tax due therefor, the person making said deposit or paying said tax may make application to the Board of Trustees or their designated agents for 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 over-payment of the tax, and, if the Board or its designated agent, is satisfied that there has been such overpayment, the sum shall be refunded to the taxpayer.

723.15. REFUND PROCEDURE.

723.15.1. A refund shall be made or credit allowed for any tax paid under protest by any purchaser or user, who has, or claims to have, an exemption as provided in this code and who meets the following procedure and requirements:

723.15.1.1. Application. Applications for refund must be made within One Hundred Eighty (180) days after the completion of a construction project or within Thirty (30) days of the issuance of a Certificate of Occupation as issued by the Building Department whichever event first occurs. All other requests for refund which do not involve a construction project shall be made within ninety (90) days after the purchase or use of the goods on which the exemption is claimed. Such application must be supported by the affidavit of the contractor, purchaser, or user accompanied by the original paid invoices or sales receipts and a certificate issued by the seller, together with such further information as may be requested by the Town or its designated agents.

723.15.1.2. An application for refund of sales or use tax paid under dispute by a purchaser or user who claims an exemption pursuant to this code shall be made within sixty (60) days after the purchase, storage, use or consumption of the goods, or services whereon an exemption is claimed.

723.15.1.3. An application for refund of tax moneys paid in error or by mistake, shall be made within three (3) years after the date of purchase, storage, use or consumption of the goods for which the refund is claimed.

723.15.2. Decisions.

Upon receipt of such application and accompanying information, the Director shall examine the same with all due speed and shall give notice to the applicant by an order in writing of his decision thereon.

723.15.3. Hearing.

An aggrieved applicant may, within ten (10) days after such decision is mailed to him, petition the Town for a hearing on the claim in which case the Town, or its designated agents, shall, upon notice to the applicant, hold a hearing upon such application, taking such information or evidence as may be material, and shall, thereafter, render its final decision upon such application. The decision of the Town must be issued within ninety (90) days of the hearing. If the applicant remains aggrieved, he is entitled to request or participate in the Alternative Dispute Resolution Procedure as set forth below.

723.16. USE TAX - ALTERNATIVE DISPUTE RESOLUTION PROCEDURE - DEFICIENCY NOTICE OR CLAIM FOR REFUND.

723.16.1. The taxpayer may elect a state hearing on the Town's final decision on a deficiency notice or claim for refund pursuant to the procedure sect forth in this section.

723.16.2. As used in this section, the term "state hearing" means a hearing before the Executive

Director of the Department of Revenue or delegate thereof as provided in Colorado Revised Statutes of 1973, Title 29, Article 2, Section 106.1(3), as amended.

723.16.3. When the Town asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the Town shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to C.R.S. 29-2-106.1(3), as amended. The taxpayer shall also have the right to elect a state hearing on the Town's denial of such taxpayer's claim for a refund of use tax paid.

723.16.4. The taxpayer shall request the state hearing within thirty days after the taxpayer has exhausted all local remedies. The taxpayer shall have no right to such hearing if he has not exhausted local remedies or if he fails to request such hearing within the time period provided for in this section. "Exhaustion of local remedies" shall mean:

723.16.4.1. The taxpayer has timely requested in writing a hearing before the Town and such Town has held such hearing and issued a final decision thereon in accordance with Section **723.15.** Such hearing shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the Town may submit a brief. The Town shall hold such hearing and issue the final decision thereon within ninety days after the Town's receipt of the taxpayer's written request therefore, except the Town may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer, but, in any such event, the Town shall hold such hearing and issue the decision thereon within one hundred eighty days of the taxpayer's request in writing therefore; or

723.16.4.2. The taxpayer has timely requested in writing a hearing before the Town and the Town has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in section **723.16.4.1.**.

723.16.5. If a taxpayer has exhausted his local remedies as provided above, the taxpayer may request a state hearing on such deficiency notice or claim for refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in C.R.S. 29-2-106.1(3) through (7), as amended.

723.16.6. If the deficiency notice or claim for refund involves only the Town, in lieu of requesting a state hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the Lincoln County District Court as provided in C.R.S. 29-2-106.1(8), as amended, provided that the taxpayer complies with the provisions set forth in Section **723.16.4.**

723.16.7. If the Town reasonably finds that the collection of the use tax will be jeopardized by delay, the Town may utilize the procedures set forth in C.R.S. 39-21-111, as amended.

723.17. ELECTION.

Before the sales and use taxes levied by this code shall become effective, they shall be submitted to and receive the approval of a majority of the qualified electors of Limon voting at a special election which shall be held solely for that purpose on the 29th day of August, 1978.

723.18. AMENDMENTS.

The Board of Trustees of Limon may amend, alter or change this code, except as to the two percent (2%) rate of sales and use taxes herein imposed, subsequent to its adoption. Such amendment, alteration, or change need not be submitted to the qualified electors of Limon for their approval.

723.19. PENALTY FOR VIOLATION.

Any person convicted of violating any of the provisions of this code shall be punished by a fine of not more than Five Hundred Dollars ($500.00) for each day of the offense. Further, the Town may impose and record such liens against the property and/or taxpayer as allowed by the laws of the State of Colorado.

(Amended January 2, 1997 by Ordinance No. 411)

723.20. EFFECTIVE DATE OF SALE AND USE TAXES.

Upon adoption of this code and subsequent approval of these sales and use taxes by the qualified electors of Limon these sales and use taxes shall apply to all retail sales, unless exempt, made on or after January 1, 1979.

730 - Alcoholic Beverages

HISTORY: Adopted May 4, 1978 by Ordinance No. 250.

730.1. Pursuant to Section 12-46-117, C.R.S. 1973, as amended, each application for a license to sell fermented malt beverages under the Colorado Beer Code, C.R.S. 1973 Sections 12-46-101, et seq., as amended, filed with the Town of Limon, shall be accompanied by a non-reimbursable application fee payable to the Town of Limon in the following amount:

730.1.1. For a new license, Three Hundred Fifty Dollars ($350.00);

730.1.2. For a transfer of location of ownership of a license, One Hundred Fifty Dollars ($150.00); and

730.1.3. For a renewal of a license, Fifty Dollars ($50.00).

730.2. Pursuant to Section 12-47-135, C.R.S. 1973, as amended, each application for a license to sell alcoholic liquors under the Colorado Liquor Code, C.R.S. 1973 Sections 12-47-101, et seq., as amended, filed with the Town of Limon shall be accompanied by a non-reimbursable application fee payable to the Town of Limon in the following amount:

730.2.1. For a new license, Three Hundred Fifty Dollars ($350.00);

730.2.2. For a transfer of location or ownership of a license, One Hundred Fifty Dollars ($150.00); and

730.2.3. For the renewal of a license, Fifty Dollars ($50.00).

730.3. The Town Clerk is hereby empowered and directed to collect said application fee at the time any such license application is presented for filing. Any such license application not accompanied by the correct application fee shall not be accepted for filing.

731 – Hotel and Restaurant License

(Added August 5, 2004 by Ordinance No. 493 [Duplicate Ordinance].)

731.1. A hotel or restaurant licensed pursuant to Section 12-47-411(3.5), C.R.S. may permit a customer of the hotel or restaurant to reseal and remove from the licensed premises one opened container of partially consumed vinous liquor purchased on the premises so long as the original container did not contain more than 750 milliliters of vinous liquor.

740 - Licensing

741 - Building Contractors

HISTORY: Added by Ordinance No. 343, June 11, 1990; Deleted in its Entirety by Ordinance No. 404, October 3, 1996

750 - Franchises

751 - Franchise Application Fee

HISTORY: Added by Ordinance No. 364, November 5, 1992.

751.1. APPLICATION FEE.

At the time of making an application for a franchise within the Town, or at the time of applying for a renewal or transfer of an existing franchise, the franchisee shall make a partial payment of the franchise application fee to the Town in the amount of $1,000.00.

751.2. RECORD OF TOWN EXPENSES.

From the time of the initial franchise application, through franchise negotiations, and up to and including the time that a new franchise or franchise renewal or transfer takes effect, the Town shall maintain accurate records of all expenses incurred, including but not limited to staff costs, consulting fees, publication fees, legal fees, election expenses, and any other expenses related to the franchising process.

751.3. NOTIFICATION TO FRANCHISEE OF FINAL APPLICATION COSTS.

Within thirty days after the effective date of the franchise code, or thirty days after the termination of franchise negotiations, the Town shall send to the franchisee, by certified mail, return receipt requested, an accounting which shall contain an itemization of all costs incurred by the Town as set forth in Section **751.2.**

751.4. FINAL PAYMENT OF APPLICATION FEE.

In the event the costs incurred by the Town as set forth in Section **751.3.**, are less than the franchisee's initial $1,000.00 payment, the Town shall refund the difference to the franchisee, which shall be mailed with the accounting. Should the costs incurred by the Town exceed the initial payment made by the franchisee, the franchisee shall be required to pay the difference to the Town within thirty days of the receipt of the accounting, which payment shall constitute the final installment of the franchise application fee.

751.5. FAILURE TO PAY.

Any franchise agreement entered into by the Town shall contain a provision acknowledging that a franchisee's failure to pay the franchise application fee as set forth in this code shall constitute a material breach of the terms of the franchise agreement.

751.6. REVIEW OF FRANCHISE APPLICATION FEE.

751.6.1.Request for Review.

If the franchisee disputes the reasonableness of the franchise application fee, it may seek review of the charges by filing a protest with the Town Board of Trustees within thirty days of the franchisee's receipt of the accounting statement.

751.6.2.Hearing Procedure.

In the event a protest is filed, the Town Board shall appoint a disinterested individual to serve as a hearing officer. The hearing officer shall schedule a hearing date not less than thirty and not more that sixty days from the date of his appointment, and shall notify both the Town and the franchisee of the hearing date by certified mail, return receipt requested. Notice must be mailed no less than twenty days prior to the hearing date. At the hearing, the franchisee shall bear the burden of proving that any charges are unreasonable, and may present evidence regarding the reasonableness of the charges. The Town may respond to any allegations of unreasonableness.

751.6.3.Purpose of Hearing.

The hearing shall be for the purpose of considering protest as to the reasonableness of the Town's incurred expenses in the franchising process. The hearing officer is not authorized to consider evidence challenging the Town's decision to incur the costs charged.

751.6.4.Evidence.

Evidence may be received in the form of documents, exhibits and testimony from witnesses. The hearing officer shall have all powers necessary to insure the fair and efficient conduct of the hearing but shall not be bound by the Colorado Rules of Evidence. All hearings shall be open to the public.

751.6.5.Decision.

The hearing officer may recommend approval of the charges, or recommend alterations of any charges based upon the evidence presented. The Town Board at its next regularly scheduled meeting, shall either approve or reject the recommendation of the hearing officer. Any action of the Town Board is final, and any payment determined to be due must be made to the Town within seven days. Nonpayment constitutes a material breach of the terms of the franchise.

751.6.6.Costs.

The Town and the franchisee shall share equally in the costs of the hearing. The franchisee's share of the costs shall be included in the final determination of charges due made by the Town Board of Trustees.

751.7. CHALLENGE TO ORDINANCE / ATTORNEY'S FEES.

In the event that any legal action is brought to challenge the validity, legality, or constitutionality of this code, the Town shall recover from any unsuccessful party as part of the costs of the action, all costs incurred, including reasonable attorneys fees, in such litigation.

Chapter 752 – Natural Gas Franchise – Aquila, Inc.

HISTORY: Created by Ordinance No. 199, April 6, 1967. Ordinance No. 318, November 6, 1986 repealed and replaced Ordinance No. 199; Amended April 5, 2007 by Ordinance No. 519.

752.1. FRANCHISE GRANTED.

The Board of Trustees of Limon, Colorado, (hereinafter referred to as "Grantor"), hereby grants a non-exclusive franchise to Aquila, Inc., d/b/a Aquila Networks, a Delaware corporation (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public places as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and all other apparatus and appliances necessary or convenient for transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

752.2. ASSIGNMENT/TRANSFER.

752.2.1. In this franchise agreement, the following words have the meanings indicated:

752.2.1.1. "Control" means actual working control in whatever manner exercised. Control includes, but may not necessarily require majority stock ownership.

752.2.1.2. "Proposed transferee" means a proposed purchaser, transferee, lessee, assignee or person acquiring ownership or control of the Franchise or the Grantee.

752.2.2. Prior to an assignment or transfer, either party may request a proposed transferee to indicate whether it:

752.2.2.1. Has ever been convicted or held liable for acts involving deceit including any violation of federal, state or local law or regulations during the five years prior to the request, or is currently under an indictment, investigation or complaint charging such acts;

752.2.2.2. Has ever had a judgment in an action for fraud, deceit or misrepresentation entered against the proposed transferee by any court of competent jurisdiction during the five years prior to the request;

752.2.2.3. Has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a natural gas distribution and/or supply system whereby the proposed transferee's potential liability exceeds $75,000.00; or

752.2.2.4. Is financially solvent, by submitting supporting financial data.

752.2.3. The consent or approval of the Grantor to any transfer by the Grantee does not constitute a waiver or release of the rights of the Grantor in or to its public rights-of-way easements and any transfer shall by its own terms be expressly subject to the terms and conditions of this Franchise Agreement.

752.2.4. Notwithstanding anything contained in this Agreement, Grantee may pledge or hypothecate the assets of its natural gas distribution and/or supply system (including this franchise) for the purposes of financing without the consent of the Grantor; provided however that no other entity shall be deemed to have authority to operate a natural gas distribution and/or supply system within the Franchise Area, unless authorized by both parties hereto.

752.3. TERM.

The rights and privileges granted hereunder shall remain in effect for a period of twenty-five (25) years from the effective date of this code.

752.4. FRANCHISE FEES OR TAXES.

752.4.1. In exchange for the franchise granted herein, Grantee shall collect from its residential and commercial customers, but not from the Town of Limon, Colorado, located within the corporate limits of Grantor, and pay to Grantor an amount equal to four percent (4%) of gross receipts derived from the sale, distribution or transportation of natural gas delivered within the present or future limits of Grantor. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. In consideration of said grant and as compensation for the use and occupancy of the streets, alleys, and public grounds, Grantee shall make a report of gross receipts and shall pay, as a franchise fee, into the treasury of said Town, quarterly, an amount equal to four percent (4%) of Grantee's gross receipts from the sale of natural gas to domestic and commercial consumers in the Town. The amount paid by Grantee shall be in lieu of, and Grantee shall be exempt from, all other occupation, license, excise or right-of-way permit fees or taxes which the Town may impose for the rights and privileges herein granted for the privilege of doing business within the Town, and in the event any such fee, charge, license, tax or assessment shall be imposed by the Town, the payment to be made in accordance with the provisions of this section shall be reduced in an amount equal to the annual burden of such fee, charge, license, tax or assessment imposed upon the Grantee. Ad valorem property taxes imposed generally upon all real and personal property within the Town shall not be deemed to affect the obligation of the Grantee under this section.

752.4.2. Any consideration hereunder shall be reported and paid to Grantor by Grantee on a quarterly basis. Such payment shall be made not more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of the term of this code.

752.4.3. If at any time the Colorado Public Utilities Commission or other authority having proper jurisdiction, prohibits such recovery, then the parties shall within thirty (30) days of the effective date of any such ruling mutually determine a satisfactory and equitable means of compensating the Grantor for the Grantee's use of its streets, alleys, and public grounds. Should the parties fail to come to a mutually acceptable agreement as to the compensation to be paid to the Grantor, the parties agree to submit the question of compensation to an arbitrator of the parties joint choosing, such arbitration to be completed within thirty days of submittal and the result thereof to be binding upon the parties subject to the non-exclusive nature of this agreement. In addition, the Company may petition or request the Grantor to discount or reduce the fee payable for natural gas delivered to a specific customer of Company when it is required to reduce the fee to retain the business of that customer. Modification or reduction of the fee could occur if the fee would cause the customer to cease purchase or transportation deliveries of natural gas from the Company by installing equipment to access natural gas supply not subject to the Town's fee. The Grantor shall not unreasonably withhold its agreement to the requested discount or reduction of the fee and the parties shall mutually work together in such instance to further the interests of both the Grantor and the Grantee whenever possible.

752.4.4. Grantor shall provide copies of annexation ordinances to Grantee on a timely basis to ensure appropriate franchise fee collection from customers within the corporate limits of Grantor.

752.4.5. Grantor shall have access to and the right to examine during normal business hours, those of Grantee's books, receipts, files, records and documents that are necessary to verify the correctness of payments due hereunder. If it is determined that a mistake was made in the payment of any fee required hereunder, such mistake shall be corrected promptly upon discovery, such that any under-payment by Grantee shall be paid within 30 days of the recalculation and any over-payment by Grantee shall be discounted from the next payment(s) due.

752.5. GOVERNING RULES AND REGULATIONS.

The franchise granted hereunder is subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by state or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this code in accordance with the action taken so as to allow Grantee to be made economically whole. In determining the rights and duties of the Grantee, the terms of this Ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance or code enacted by the Grantor.

752.6. PROVISION FOR INADEQUATE ENERGY SUPPLIES.

If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or the supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

752.7. CONSTRUCTION AND MAINTE-NANCE OF GRANTEE'S FACILITIES.

752.7.1. Any pavements, sidewalks or curbing or other improvements in the public right-of-way taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

752.7.2. Grantee agrees that for the term of this franchise it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible.

752.7.3. Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee a sufficient length of time in advance of the actual commencement of the work, considering seasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

752.8. EXTENSION OF GRANTEE'S FACILITIES.

Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria and the other factors set forth herein, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor, acknowledging the Grantor's preference that all of the Grantor's residents have access to the

Grantee's service, whenever practicable. The Grantee acknowledges that in the extension of Grantee's facilities or in Grantee's unilateral improvement or relocation of its facilities, the Grantee will give the Grantor reasonable notice of plans for such extension, improvement, or relocation. The notice shall contain the nature and character of the extension, improvement, or relocation, the proposed time that the Grantee will start the work, and other pertinent information either required by the Grantor's codes and ordinances, or deemed necessary by the Grantor in the administration of Grantor's streets, alleys, public ways, and other infrastructure. Grantee will comply with all of Grantor's applicable codes and ordinances relative to land use.

752.9. RELOCATION OF GRANTEE'S FACILITIES.

752.9.1. If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference and is not merely for the convenience of the Grantor. If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and is not merely for the convenience of the Grantor or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of way until it receives the reasonable cost of relocating the same and Grantor provides a reasonable alternative location for such facilities.

752.9.2. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of, any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the Grantor and the Grantee and a pay a sum sufficient to cover the expense of moving Grantee's facilities and equipment in such location, and any damages incident thereto.

752.10. CONFIDENTIAL INFORMATION.

Grantor acknowledges that certain information it might request from Grantee pursuant to this code may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under state or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

752.11. FORCE MAJEURE.

It shall not be a breach or default under this code if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, code, executive order, or regulation promulgated by a governmental authority having jurisdiction; and (4) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

752.12. HOLD HARMLESS.

752.12.1. Each party hereto (the "Indemnifying Party") shall, at its sole cost and expense, indemnify, hold harmless, release and defend the other party (the "Indemnified Party"), its officials, boards, commissions, employees and agents from and against any and all liability, loss, claims, suits, judgments, reasonable costs and attorneys fees, and damages of any kind alleged by a claimant against the Indemnifying Party that arises out of the Indemnifying Party's negligence in performing its obligations under this Franchise.

752.12.2. If a claim arises, the Indemnified Party shall tender the defense of the claim to the Indemnifying Party. The Indemnified Party may participate in the defense of a claim at the expense of the Indemnifying Party. The Indemnifying Party may in its sole discretion settle any claims affecting the Indemnified Party without the latter's approval or the Indemnifying Party may relieve itself of all duty to defend and indemnify the Indemnified Party by paying to the Indemnified Party that sum which the claimant has offered to accept and which the Indemnifying Party would have paid but for the Indemnified Party's objection.

752.12.3. The Indemnifying Party is not required to indemnify the Indemnified Party for the unlawful activities, gross negligence or willful misconduct or ultra vires acts on the part of the Indemnifying Party's officials, boards, commissions, agents or employees, nor for their actions contrary to statutory or constitutional law.

752.12.4. The fact that the Grantee carries out any activities under the Franchise through independent contractors does not constitute an avoidance of or defense to its duty of defense and indemnification under this section. Notwithstanding anything contained herein, Grantee and such independent contractor shall not be considered partners, agents or joint employers.

752.13. INSURANCE.

Grantee shall maintain insurance at all times during the term of this franchise and any extensions hereof in an adequate amount to cover and protect itself and others to whom Grantee may be held legally liable in the performance of its duties. Grantee shall upon request provide Grantor with a certificate of insurance evidencing such coverage and naming Grantor as an additional insured thereunder. All insurance carriers providing the coverage described in this section shall be fully licensed to offer insurance in the State of Colorado.

752.14. PROCEDURE FOR REMEDYING VIOLATIONS TO FRANCHISE.

If either party asserts that the other is in default in the performance of a material obligation under this Franchise or has practiced deceit or fraud, the complaining party must, within 90 days of the date it discovers such default, notify the other party in writing of the nature of the default and the desired remedy. The notice shall be served in the manner provided under the laws of Colorado for the service of original notices in civil actions. The defaulting party shall have a reasonable amount of time, pursuant to applicable state law, but in no event more than 120 days after service of the notice, to cure the default, resolve any disputes with respect thereto, or agree to amend or terminate this Ordinance/code/franchise. If the default is not resolved within the 120 day period, the parties may seek all remedies available at law, including, but not limited to, non-binding arbitration, mediation or litigation.

752.15. PROCEDURES IN EVENT OF TERMINATION.

752.15.1. If this Agreement expires without renewal or is otherwise lawfully terminated, the Grantor may, subject to applicable law:

752.15.1.1. Allow the Grantee to maintain and operate its natural gas distribution and supply system on a month-to-month or short-term extension of this Agreement; or

752.15.1.2. Order the removal of the aboveground system facilities from the franchise area within a reasonable period of time as determined by the Grantor.

752.15.2. In any event, upon termination of this Franchise, Grantee shall be given a reasonable amount of time to remove its plant, structures and equipment, and in so doing, the Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all streets and public places in as good a condition as that prevailing prior to the Grantee's removal of its equipment. The indemnification and insurance provisions shall remain in full force and effect during the period of removal.

752.15.3. If the Grantee fails to complete any removal required by this section, or any work

required by law within one-hundred-twenty (120) days after receipt of written notice or termination of this Franchise, as the case may be, the Grantor may cause the work to be done and the Grantee shall reimburse the Grantor for the reasonable costs incurred within thirty (30) days after receipt of an itemized list of the costs.

752.15.4. The Grantor may seek legal and equitable relief to enforce the provisions of this section.

752.16. RECEIVERSHIP AND FORECLOSURE.

752.16.1. At the option of the Grantor, subject to applicable law, this Agreement may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

752.16.1.1. The receivership or trusteeship is vacated within one hundred twenty (120) days after such appointment; or

752.16.1.2. The receivers or trustees have, within one hundred twenty (120) days after their appointment, fully complied with all the terms and provisions of this Agreement, and have remedied all defaults under the Agreement. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Agreement.

752.16.2. If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of the Grantee, the Grantor may serve notice of revocation on the Grantee and to the purchaser at the sale, and the rights and privileges of the Grantee under this Agreement shall be revoked thirty (30) days after service of such notice, unless:

752.16.2.1. The Grantor has approved the transfer of the Franchise, in the manner provided herein; and

752.16.2.2. The purchaser has covenanted and agreed with the Grantor to assume and be bound by all of the terms and conditions of this Agreement.

752.17. NON-ENFORCEMENT BY GRANTOR.

Grantee is not relieved of its obligation to comply with any of the provisions of this Agreement or the franchise ordinance by reason of any failure of the Grantor to enforce prompt compliance. Grantor's forbearance or failure to enforce the provisions of this Agreement shall not serve as a basis to stop any subsequent enforcement.

752.18. SUCCESSORS AND ASSIGNS.

752.18.1. All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors and assigns.

752.18.2. Neither party may assign this franchise without the prior written consent of the other party, which consent may not be unreasonably withheld and which, the parties acknowledge, is subject to state law; provided, however, that the Grantee may assign this franchise, without the Grantor's consent, to: (a) an affiliate of Grantee (which shall include any person or entity that, directly or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with Grantee); (b) any person or entity with which Grantee is merged or consolidated; (c) any person or entity which acquires a substantial part of the Grantee's assets; or (d) any person or entity to which Grantee has assigned, transferred or pledged its rights or interests under this franchise for a mortgage or otherwise as security for indebtedness. Upon the assignment of this franchise to an assignee referred to in clause (a) or (c) above and such assignee's delivery to the Grantor of a writing agreeing to assume Grantee's obligations, Grantee shall be relieved of all further liability hereunder. Nothing in this section shall restrict the right of a mortgagee or other debtor of Grantee, or a purchaser upon foreclosure sale, to operate the franchise, subject to the Grantor's consent as set forth herein, and subject to the terms contained herein and any provisions with respect to this franchise contained in the Grantor's Ordinances, Codes, standards, policies, and regulations as adopted by the Grantor during the terms of the franchise agreement or as empowered by applicable state statute.

752.19. NO THIRD PARTY BENEFICIARIES.

This code constitutes a franchise agreement between the Grantor and Grantee. No provision of this code

shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

752.20. SEVERABILITY.

If any section, subsection, paragraph, term or provision of this Agreement is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, paragraph term or provision of this Agreement, all of which will remain in full force and effect for the term of the Agreement, or any renewal or renewals thereof.

752.21. NON WAIVER.

Any waiver of any obligation or default under this code shall not be construed as a waiver of any future defaults, whether of like or different character.

752.22. REPEAL CONFLICTING ORDINANCES.

This code, , shall constitute the entire agreement between the Grantor and the Grantee relating to the franchise granted by Grantor hereunder, and the same shall supersede all prior ordinances relating thereto, and any terms and conditions of such prior ordinances/codes or parts of ordinances/codes in conflict herewith are hereby repealed. Ordinance No. 318 of the Town of Limon, Colorado, is hereby repealed as of the effective date hereof.

752.23. EFFECT AND INTERPRETATION OF ORDINANCE.

The captions that precede each section of this code are for convenience and/or reference only and shall not be taken into consideration in the interpretation of any of the provisions of this code.

753 - Mountain View Electric Association

HISTORY: Added by Ordinance No. 361, June 4, 1992.

753.1. Town Designation.

Whenever the word Town is hereinafter employed it shall designate the Town of Limon, Lincoln County, Colorado, the grantor, and whenever the word Company is used, it shall designate not only Mountain View Electric Association, Inc., a Colorado corporation, the grantee, but also its successors and assigns.

753.2. Company Rights.

753.2.1. There is hereby granted to the Company, for the period and upon the terms and conditions hereinafter specified, the right, privilege and authority to locate, build, construct, acquire, purchase, extend, maintain and operate into, within and through said Town all necessary, needful and convenient poles, pole lines, posts, wires, transformers, guy posts and guy wires, apparatus, appliances and works, for the purchase, generation, transmission and distribution of electrical energy, with the right and privilege to furnish, sell and distribute said electrical energy to the Town, and the inhabitants thereof, for light, heat and power or other purposes, by means of conduits, cables, poles with wires strung thereon, or otherwise, on, over, under, along, across and through any and all streets, alleys, viaducts, bridges, roads, lanes and other public ways and places in said Town and on, over, under, along, across and through any extension, connection with or continuation of the same and/or on, over, under, along, across and through any and all such new streets, alleys, viaducts, bridges, roads, lanes and other public ways and places as may be hereafter laid out, opened, located or constructed within the territory now or hereafter included in the boundaries of said Town.

753.2.2. The Company is further granted the right, privilege and authority to excavate in, occupy and use any and all streets, alleys, viaducts, bridges,

roads, lanes and other public ways and places under the supervision of the properly constituted authority of the Town for the purpose of bringing electrical energy into, within and through the Town and supplying electrical energy to said Town and the inhabitants thereof and in the territory adjacent thereto, and further, under the supervision of the properly constituted authority of the Town, to trim or cut down such trees and shrubbery and to control the growth of same by chemical means, machinery, or otherwise, as may be reasonably necessary to effect said purpose or purposes, provided, however, that the Company shall so locate its plants, substations, works, transmissions and distribution structures, lines, equipment and conduits within said Town as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners whose property adjoins any of said streets, alleys or other public ways and places. The Company shall be subject to all reasonable regulations of general application which may now or hereafter be prescribed by general ordinance or code of the Town with respect to the use of the public streets, alleys, avenues and other public places of the Town. Should it become necessary for the Company, in exercising its rights and performing its duties hereunder, to interfere with any sidewalk, pavement, water main, sewer, or any other public or private improvement, the Company shall repair or cause to be repaired and restored to its original condition such sidewalk, graveled or paved street, road, alley, water main, sewer, or other public or private improvement after the installation of its poles, conduits or other structures, and in default thereof, after notice, the Town may make such repair and charge the cost thereof to, and collect the same from, the Company.

753.2.3. The Company shall so maintain its structures, apparatus, equipment, poles, wires and conduits as to afford all reasonable protection against injury or damage to persons or property therefrom, and the Company shall save the Town harmless and indemnify it from all liability, claims, demands, judgments, litigation, suits or damage and all reasonable expenses, to include, but not be limited to, reasonable attorney fees, necessarily accruing against the Town arising or resulting from the negligent exercise by the Company of any of the rights and privileges hereby granted; provided, that the Company shall have had notice of the pendency of any action against the Town arising out of such exercise by the Company of said rights and privileges and be permitted at its own expense to appear and defend or assist in the defense of the same. None of the Town's damages or expenses reimbursed by the Company under this section shall be surcharged solely to the residents of the Town.

753.2.3.1. The Company shall carry during the term of this franchise insurance in a solvent surety company authorized to do business in the State of Colorado, which policy of insurance shall provide minimum amounts of liability as follows:

753.2.3.1.1. Workmen's compensation insurance in accordance with the laws of the State of Colorado.

753.2.3.1.2. Public liability insurance on all its operations, with limits of not less than $500,000 to any one person and $1,000,000 to any one accident and $200,000 for property damage, or a comparable single limit of liability, and

753.2.3.1.3. Motor vehicle liability insurance with limits of not less than $500,000 to any one person and $1,000,000 to any one accident and $200,000 for property damage, or a comparable single limit of liability.

753.2.3.1.4. The Company shall provide the Town with a certificate of insurance in the minimum amounts aforesaid within 30 days of the effective date of this code.

753.2.4. If at any time it shall be necessary to change the position of any pole, conduit or service connection of the Company to permit the Town to lay, make or change street grades, pavements, sewers, water mains or other Town works, such changes shall be made by the Company at its own expense.

753.2.5. The Town shall have the right, without cost, to use all poles of the Company within said Town for the purpose of stringing wires thereon for its fire alarm and police signal systems; provided, however, the Company assumes and shall be subject to no liability and shall be subject to no additional expense in connection therewith. It is further provided that the use of said poles by said Town shall not interfere in any unreasonable manner with the Company's use of same. The Company shall have the right to make such use of its poles and other property, other than the uses contemplated in this code as it deems proper so long as such other use does not interfere with the supplying of electrical energy.

753.3. Company Responsibilities.

753.3.1. The Company shall furnish electrical energy within the corporate limits of the Town or any addition thereto, to the Town, and to the inhabitants thereof, and to any person or persons or corporation doing business in the Town or any addition thereto, at the applicable and effective rates and under the terms and conditions set forth in the Rate Schedules, Standards for Service, Rules and Regulations, and Service Connection and Extension Policies, on file with or fixed by The Public Utilities Commission of the State of Colorado, or by any other competent authority having jurisdiction in the premises.

753.3.2. The Company shall not, as to rates, charges, service, facilities, rules, regulations or in any other respect make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage, provided that nothing in this grant shall be taken to prohibit the establishment from time to time of a graduated scale of charges and classified rate schedules to which any customer coming within an established classification would be entitled.

753.3.3. The Company will from time to time during the term of this franchise make such enlargements and extensions of its distribution system as the business of the company and the growth of the Town justify, in accordance with the National Electric Safety Code and the Company's Standards for Service, Rules and Regulations, and Service Connection and Extension Policies for electric service concurrently in effect and on file with The Public Utilities Commission of the State of Colorado or other competent authority having jurisdiction in the premises. The Company shall, at all times, make and keep full and complete plats, maps and records showing the exact location of all property of the Company used in the exercise of the rights and privileges granted there under.

753.3.4. The Company, from time to time, may promulgate such rules, regulations, terms and conditions governing the conduct of its business, including the utilization of electrical energy and payment therefor, and the interference with, or alteration of any of the company's property upon the premises of its customers, as shall be necessary to insure a continuous and uninterrupted service to each and all of its customers and the proper measurement thereof and payment therefor, provided that the Company shall keep on file in its office at Limon, Colorado, available to the public, copies of its Rate Schedules, Standards for Service, Rules and Regulations and Service Connection and Extension Policies concurrently in effect and on file with The Public Utilities Commission of the State of Colorado or other competent authority having jurisdiction in the premises. Copies thereof shall also be filed in the office of the Town Clerk.

753.4. Fees and Taxes.

753.4.1. As a further consideration for this franchise, and accepted by the Town in lieu of all occupancy and license taxes and all other special taxes, assessments or excises upon the conduits, poles, wires or other property of the Company, or other levies that might be imposed, either as a franchise tax, occupation tax, occupancy tax, license tax, permit charge, or for the inspection of meters, poles, conduits or other property of the Company, or otherwise, the Company shall pay to the Town a sum equal to Three per cent (3%) of its gross revenue derived from the sale of electricity within the corporate limits of the Town for electrical energy furnished for light, heat or power, or other purposes, for electric service furnished it and excluding all revenue received in excess of $10,000.00 derived per annum from the sale of electric service rendered to each customer at any one location. All amounts paid to the Company by the Town or any of its departments for electric service shall be excluded from computations of the franchise fee.

753.4.2. Payment of the franchise fee accruing after the effective date of this code shall be made in quarterly installments not more than 30 days following the close of the calendar quarter for which payment is to be made. The initial and final payments shall be pro-rated for the portions of the quarters at the beginning and the end of the term of this code. For the purpose of ascertaining or auditing the correct amount to be paid under the provisions of this section, the Town Clerk and/or any committee appointed by the Board of Trustees of said Town shall have access to the books of said Company for the purpose of checking the gross income received from operations within said Town.

753.5. Further Responsibilities and Reservations.

753.5.1. This code continues the franchise granted by Ordinance No. 198, adopted February 2, 1967, and it shall be in full force and effect from and after its passage, approval and publication, as by law required, and upon acceptance thereof in writing by the Company, and the terms, conditions and covenants hereof shall remain in full force and effect

for a period of twenty-five (25) years from and after such acceptance thereof by said Company. This code, when accepted by the Company as hereinabove provided, shall from and after the effective date, supersede, cancel and be in lieu of any and all other existing or prior grants of right, permission or authority to the Company or any predecessor companies or assignors of the Company, to construct, operate and maintain any system for the production, transmission, distribution and sale of electricity within the Town.

753.5.2. All poles, pole lines, posts, wires, transformers, guy posts and guy wires, apparatus, appliances and works, conduits, plants, substations or other materials or objects pertaining thereto, used or placed by the Company within the Town shall be and remain the property of the Company.

5.2.1. If the Company shall be in default in the performance of any of the terms and conditions of this ordinance and shall continue in default for more than thirty (30) days after receiving notice from the Town of such default, the said Town may, by ordinance duly passed and adopted, terminate all rights granted under this code to the Company. The notice of default shall specify the provision or provisions in default. Said notice shall be in writing and shall be served in the manner provided by the laws of Colorado for the service of original notices in civil actions. In the event of cancellation or other termination of this franchise pursuant hereto, the Town may require the Company, at Company's own expense, to forthwith remove all its construction and equipment from the streets, alleys, and public ways in the Town and restore the same in good condition, satisfactory to the Town or its authorized representative.

753.5.3. Nothing in this code shall be so construed as to prevent the Company from assigning all of its rights, title or interest, gained or authorized under or by virtue of the terms of this code, with the consent of said Town, which said consent shall not be unreasonably withheld. All provisions of this code which are obligatory upon, or which inure to the benefit of the Company shall also be obligatory upon and inure to the benefit of any and all successors and assigns of the Company.

753.5.4. The right is hereby reserved to the Town to adopt, from time to time, in addition to the provisions herein contained, such ordinances as may be deemed necessary in the exercise of its police power, provided that such regulations shall be reasonable and not inconsistent with the rights herein granted, and not in conflict with the laws of the State of Colorado, or with orders of other authorities having jurisdiction in the premises.

753.5.5.The Company shall at all times during the period of this franchise maintain an office in the Town of Limon.

753.5.6. This is a non-exclusive franchise. The Town does not agree to restrict the number of franchises in all or any part of the Town for any person, firm or corporation in the same business, a competing business or any related business.

754 - Cable TV

754.1. DEFINITIONS.

For the purposes of this code the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Words not defined shall be given their common and ordinary meaning.

754.1.1."Agreement" or "Franchise Agreement" means an ordinance or code containing the specific provisions of a franchise granted, including references, specifications, requirements and other related matters.

754.1.2."Access Channels" or "PEG Access Channels" means those channels which, by the terms of this agreement, are required to be kept available by the Grantee for partial or total dedication to public access, educational access or local government access.

754.1.3."Basic Cable Service" means the service tier which includes, at a minimum, the signals and programming as defined in 47 U.S.C. § 543(b)(7), as amended.

754.1.4."Board" means the Town Board of Trustees of the Town of Limon.

754.1.5."Cable Television System" or "System", also referred to as "Cable Communications System" or "Cable System" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community. This definition does not include a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility uses any public rights-of-way.

754.1.6."Cable Services" means all communications, maintenance, repair and installation services provided by the Grantee, including the delivery of television signals and programming covered by the regular monthly charge paid by subscribers, including such standard type of television service that is normally furnished by cable communications companies for a regular monthly charge, and such additional communication services as are furnished as part of the cable communication system, including any two-way interactive, or return path services.

754.1.7."Channel" or "Cable Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system which is capable of delivering a television channel as defined by the Federal Communications Commission.

754.1.8."Franchise" means an initial authorization, or renewal thereof, issued by the Board, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system.

754.1.9."Franchise Area" means the entire geographic area of the Town designated in this Agreement to receive cable service from Grantee, including any areas annexed by the Town during the term of this Agreement.

754.1.10. "Franchise Fee" means any fee or assessment of any kind imposed by a franchising authority on a Grantee as compensation for the use of public rights-of-way. The term "Franchise Fee" does not include:

754.1.10.1. Any tax, fee or assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminatory against cable operators or cable subscribers);

754.1.10.2. Capital costs which are required by the franchise to be incurred by Grantee for public, educational or governmental access facilities;

754.1.10.3. Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance indemnification, penalties, or liquidated damages; or

754.1.10.4. Any fee imposed under Title 17, United States Code.

754.1.11. "Grantee" means Galaxy Telecom, Inc., a Delaware corporation and its lawful successor, transferee or assignee.

(Transferred by Ordinance No. 384 on December 1, 1994)

754.1.12. "Grantor" or "Town" or "Franchising Authority" means the Town of Limon, Colorado, as represented by the Board, or any delegate acting within the scope of its jurisdiction.

754.1.13. "Gross Annual Receipts" means the annual gross receipts or other consideration derived directly or indirectly by Grantee from all sources of operations of the cable television system within the Town utilizing the public streets and rights-of-way for which a franchise is required in order to deliver such cable service. This definition excludes refundable deposits, and rebates or credits.

754.1.14. "Installation" means the connection of the system to subscribers' terminals, and the provision of service.

754.1.15. "Person" means an individual, partnership, association, corporation, governmental entity, company or organization of any kind.

754.1.16. "Public building" means any structure located within the franchise area which may be owned, leased and/or occupied and utilized primarily by any governmental or quasi-governmental entity.

754.1.17. "Street" means the surface of and the space above and below any public street, right-of-way, road, highway, alley, sidewalk, lane and similar public property in areas that the Grantor shall permit to be included within the definition of street

from time to time, now or hereafter existing as such within the franchise area.

754.1.18. "Subscriber" means any person who or which elects to subscribe to, for any purpose, a service provided by the Grantee by means of or in connection with the cable system, and who pays the charges therefore.

754.2. GRANT OF FRANCHISE.

754.2.1.Grant.

Grantor hereby grants to Grantee a non-exclusive, terminable franchise to construct, operate, maintain and reconstruct, a cable television system within the area of the Town of Limon, subject to the terms and conditions as set forth in this Franchise Agreement. Said Franchise shall constitute both a right and an obligation to provide the services required by the provisions of this Agreement.

754.2.2.Police Powers.

In accepting this Franchise, Grantee acknowledges its rights hereunder are subject to the police powers of the Grantor to adopt and enforce general ordinances necessary to the safety and welfare of the public. Grantee agrees to comply with all applicable general laws and ordinances enacted by the Grantor pursuant to such power. Nothing in this Franchise shall be deemed to waive the requirements of other codes and ordinances enacted under the police power, including but not limited to, those regarding permits, fees to be paid pursuant to those other codes or ordinances, and the manner of construction.

754.2.2.1. Any conflict between the provisions of this Agreement and any other present or future lawful exercise of Grantor's police power shall be resolved in favor of the latter. Any such enactment that is not of general application shall prevail only if the Grantor finds an emergency exists constituting a danger to the health, safety, property or general welfare or such enactment is mandated by federal or state law.

754.2.3.Use of Public Streets and Ways.

Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public rights-of-way and public utility easements within the franchise area such wires, cables, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the cable system. Grantee shall comply with all applicable Grantor construction codes and procedures.

754.2.4.Duration.

The term of this Franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be fifteen (15) years from the effective date of this Agreement, unless lawfully terminated sooner as hereinafter provided.

754.2.5.Franchise Non-Exclusive.

This Franchise shall be non-exclusive. The Grantor specifically reserves the right to grant, at any time, such additional franchises for a cable system as it deems appropriate, provided however that such additional grant shall not operate to materially modify, revoke or terminate any rights previously granted to the Grantee, and provided further that the material provisions of any such additional franchise granted shall be reasonably comparable to those contained herein.

754.2.6.Franchise Fee.

754.2.6.1. Grantee shall pay to the Grantor an annual franchise fee of three percent (3%) of the Gross Annual Receipts or such greater amount as may be permitted by federal law, upon sixty (60) days notice from Grantor. Such payment shall commence as of the effective date of this Franchise. The Grantor, on an annual basis, shall be furnished with a statement within sixty (60) days of the close of the calendar year, either audited and certified by an independent certified public accountant or certified by an officer of the Grantee, reflecting the total amounts of gross receipts and all payments, deductions and computations for the period covered by the payment. Upon thirty (30) days prior written notice Grantor shall have the right to conduct an independent audit of Grantee's records, in accordance with generally accepted accounting procedures, and if such audit indicates a franchise fee underpayment of two percent (2%) or more, the Grantee shall assume all reasonable costs of such an audit.

754.2.6.1.1. In the event that Grantee disputes the results of Grantor's audit, Grantee may take up to sixty (60) days from the time it is notified in writing of the results of Grantor's audit, to review and revise its financial statements provided to Grantor. Upon the expiration of such sixty day period, Grantee

shall either make the payments as called for in Grantor's audit, plus additional payments as described in section **754.2.6.1.3.**, resolve the issue to the parties' mutual satisfaction, or initiate the arbitration procedures described in Section **754.12.3.**

754.2.6.1.2. In the event of arbitration, upon a finding that there was a franchise fee underpayment of two percent (2%) or more, the Grantee shall assume all reasonable costs of Grantor's audit, as well as the additional compensation described in section **754.2.6.1.3.**, and any other damages or costs as may be required by the arbitrators pursuant to Section **754.12.3.**

754.2.6.1.3. The Grantor's right to conduct an independent audit of Grantee's records as described in section **754.2.6.1.1.** shall be limited to the franchise fee payments made to Grantor for the preceding full five years, prior to the year in which the audit is undertaken.

754.2.6.2. Except as otherwise provided by law, no acceptance of any payment by the Grantor shall be construed as a release or as an accordance and satisfaction of any claim the Grantor may have for further or additional sums payable as a franchise fee under this ordinance or for the performance of any other obligation of the Grantee.

754.2.6.3. In the event that any franchise payment or re-computed amount is not made on or before the date specified in the franchise agreement, Grantee shall pay as additional compensation:

754.2.6.3.1. An interest charge computed from such due date at an annual rate equal to the prime lending rate of Norwest Bank, Denver, Colorado, plus one percent (1%) during the period for which payment was due; and

754.2.6.3.2. If the payment is late by thirty (30) days or more after Grantee receives written notice from Grantor, a sum of money equal to five percent (5%) of the amount due. In lieu of this five percent penalty, at the Grantor's discretion, the late payment may be regarded as a material breach of this Agreement.

754.2.6.3.3. In the event that Grantee notifies Grantor of its intent to reevaluate and/or challenge the Grantor's determination of a franchise fee underpayment, no penalty shall accrue against Grantee until such time as the matter has been resolved by agreement of the parties, or an award has been made in favor of Grantor after arbitration described in Section **754.12.3.**

754.2.6.4. Franchise Fee payments shall be made quarterly for the preceding quarter no later than May 15, August 15, November 15 and February 15 of each year. The quarterly payments may be based on unaudited revenue estimates, with any final adjustments made no later than ninety (90) days after the close of Grantee's fiscal year.

754.2.7.Rates.

The Grantee shall establish rates for its services and apply those rates consistent with governing law. Grantee is not precluded from discounting rates for promotional or marketing purposes.

754.2.8.Rate Regulation.

Grantor may regulate rates for cable services to the extent permitted by law, and may resume regulation of any rates currently deregulated by preemption of federal and state law, when such preemption is lifted.

754.2.9.Notices.

Throughout the term of this Franchise, Grantee shall maintain and file with Grantor an address for service of notices by mail. If such address is different from Grantee's corporate offices, a copy of all notices from Grantor to Grantee shall be sent to Grantee's corporate offices as well.

754.3. FRANCHISE RENEWAL AND TRANSFER.

754.3.1.Negotiated Renewal.

Notwithstanding the formal renewal procedures mandated by the Cable Communications Policy Act of 1984, Grantee may submit to the Grantor a proposal for extension or renewal of the Franchise at any time before the expiration of the Franchise.

754.3.1.1. Grantor and Grantee at any time may elect to negotiate a franchise renewal agreement.

754.3.1.2. The provisions of this section shall constitute the informal renewal proceedings described in the Cable Communications Policy Act of 1984.

754.3.2.Reimbursement of Processing Costs.

Pursuant to Town Ordinance 364, and not later than thirty (30) days after the effective date of this Franchise Agreement, Grantee shall reimburse Grantor for all reasonable processing costs incurred in connection with the negotiation of this Franchise Agreement. The franchise processing costs shall not be charged against any franchise fees due the Grantor by the Grantee during the term of this Franchise Agreement, nor shall they be passed through as a direct cost to the Grantee's subscribers.

754.3.3. Transfer of Ownership or Control.

In this section, the following words have the meanings indicated:

754.3.3.1."Control" means actual working control in whatever manner exercised. Control includes, but may not necessarily require majority stock ownership.

754.3.3.2."Proposed transferee" means a proposed purchaser, transferee, lessee, assignee or person acquiring ownership or control of the Franchise or the Grantee.

754.3.4. Grantee shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the Franchise or any of the rights or privileges therein granted, without the prior consent of the Grantor and then only upon such terms and conditions as the Grantor may lawfully require, except that such prior consent shall not be required for an intra-corporate transfer from one wholly owned subsidiary to another wholly owned subsidiary. The consent required by the Grantor shall be given or denied no later than ninety (90) days following any request, and may not be unreasonably withheld.

754.3.5. The requirements of section **754.3.3.2.** shall apply to any change in control of Grantee. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten percent (10%) or more of the voting shares of the Grantee. A transfer of control by the Grantee shall subject the franchise to cancellation unless and until the Grantor consents in writing. The consent required shall be given or denied by the Grantor no later than ninety (90) days following a request, and may not be unreasonably withheld. For the purpose of determining whether it should consent to a transfer or control, the Grantor may inquire into the qualifications of the proposed transferee and the Grantee shall assist the Grantor in the inquiry.

754.3.6. In seeking the Grantor's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

754.3.6.1. Has ever been convicted or held liable for acts involving deceit including any violation of federal, state or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts; and

754.3.6.2. Has ever had a judgment in an action for fraud, deceit or misrepresentation entered against the proposed transferee by any court of competent jurisdiction; and

754.3.6.3. Has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a cable system whereby the proposed transferee's potential liability exceeds $75,000.00; and

754.3.6.4. Is financially solvent, by submitting the financial data including the financial statements that are audited and certified by a certified public accountant, along with any other data that the Grantor may reasonably require; and

754.3.6.5. Has the financial and technical capability to enable it to maintain and operate the cable system for the remaining term of the Franchise.

754.3.7. The consent or approval of the Grantor to any transfer by the Grantee does not constitute a waiver or release of the rights of the Grantor in or to its public rights-of-way easements and any transfer shall by its own terms be expressly subject to the terms and conditions of this Franchise Agreement.

754.3.8.A sale, transfer or assignment of the Franchise may not be approved without the successor in interest becoming a signatory to this Franchise Agreement.

754.3.9. Notwithstanding anything contained in this Agreement, Grantee may pledge or hypothecate the assets of the cable system (including this franchise) for the purposes of financing without the consent of the Grantor; provided however that no other entity shall be deemed to have authority to operate a cable communication systems within the Franchise Area, unless authorized by the Grantor as provided in this Section **754.3.3.**

754.3.10. Upon transfer, Grantee shall reimburse Grantor for Grantor's reasonable processing and review expenses in connection with a transfer of the Franchise or of control of the Franchise, including without limitations costs of administrative review, financial, legal and technical evaluation of the proposed transferee, consultants (including technical and legal experts and all costs incurred by such experts), notice and publication costs and document preparation expenses. Any such reimbursement shall not be charged against any franchise fee due Grantor during the term of the Franchise.

754.3.11. Right of First Refusal.

In the event that Grantee receives a bona fide offer to purchase the cable communications system, which offer is acceptable to the Grantee, the specific terms of such offer shall be presented to the Grantor. Grantor shall have the right of first refusal to acquire the cable communications system upon the same terms and conditions as are made in the bona fide offer. Grantor shall notify Grantee in writing within sixty (60) days of receipt of the offer whether or not it intends to exercise its right of first refusal. If no response is made within sixty (60) days of receipt of a bona fide offer by Grantor, then Grantor shall be deemed to have waived its right of first refusal for that particular offer.

754.4. FINANCIAL AND INSURANCE REQUIREMENTS.

754.4.1.Security Fund.

754.4.1.1. Within thirty (30) days of the effective date of this Agreement, Grantee shall establish and provide to Grantor a security fund, as security for the faithful performance by Grantee of all material provisions of this Agreement. The security fund shall consist of two parts. The first part shall be a construction bond in the amount of Twenty-Five Thousand Dollars ($25,000.00). The second part shall be a performance bond in the amount of at least Five Thousand Dollars ($5,000.00) and shall either be in the form of a bond, an irrevocable letter of credit, or a cash deposit established in a local bank in an interest-bearing account payable to the order of Grantor, as trustee for Grantee, with all interest distributed to the Grantee.

754.4.1.2. The construction bond shall be maintained at the Twenty-Five Thousand Dollars ($25,000.00) level until the system improvements provided for in Exhibit A; as section **754A**, herein are completed, at which time the bond shall be released, provided there are then no outstanding material violations of this Agreement. The performance bond portion of the security fund shall be maintained at the Five Thousand Dollar ($5,000.00) level throughout the term of this Agreement, provided that at intervals no more than each three (3) years, Grantor shall have the right to require that this amount be increased to reflect changes in the Denver metropolitan area consumer price index during the prior three year period.

754.4.1.3. The performance bond may be assessed by Grantor for purposes including, but not limited to, the following:

754.4.1.3.1. Failure of Grantee to pay Grantor sums due under the terms of the Franchise.

754.4.1.3.2. Reimbursement of the costs borne by the Grantor to correct franchise violations not corrected by Grantee, after due notice.

754.4.1.3.3. Monetary remedies, penalties or damages assessed against Grantee due to default or breach of this Franchise Agreement.

754.4.1.4. Grantee agrees that it shall not refuse to pay any assessment on the security fund, or attempt, through litigation or otherwise, to prevent or inhibit Grantor from taking said funds, except as provided herein. Should Grantee seek to challenge Grantor's notice of an intent to assess the security fund for any reason, Grantee shall, within seven (7) days, unless such other time is provided for in this Franchise Agreement, notify Grantor of its dispute of the intent to assess the security fund, and the reasons therefor. In the event that the parties cannot resolve their differences, Grantee shall, within twenty-one (21) days after providing the notice of dispute of the proposed assessment, commence an arbitration proceeding to resolve the dispute pursuant to Section **754.12.3.** Failure to comply with the seven and/or twenty-one day notice provisions as described in this section shall be deemed a waiver of Grantee's right to dispute the proposed assessment, and at such time Grantor may make the assessment against the security fund.

754.4.1.5. Within thirty (30) days after notice to it that any amount has been withdrawn from the security fund pursuant to section **754.4.1.3.**, the Grantee shall restore such security fund to the amount required by this agreement.

754.4.1.6. If the Grantee fails, after thirty (30) days written notice to pay to the Grantor any franchise fee or taxes lawfully due and unpaid; or, fails to pay the Grantor within such thirty days, any damages, costs or expenses which the Grantor shall be compelled to pay by the reason of any act or default of the Grantee in connection with the Franchise; or fails, after thirty days notice of such failure by the Grantor to comply with any material provision of the Franchise which the Grantor reasonably determines can be remedied by the expenditure of the security fund, the Grantor may thereafter notify the Grantee of its intent to withdraw the amount thereof from the security fund, and the reasons therefore.

754.4.1.7. In the event that the Franchise is lawfully terminated for cause by reason of the default of the Grantee, and after the Grantee has exhausted all of its remedies relating thereto, the Grantee may make written request that the Grantor return all of the security fund deposited pursuant to this section and its accrued interest. Such funds shall be returned to the Grantee provided there is then no further outstanding amounts due to Grantor pursuant to this Agreement. In the event that no written request is made by Grantee for return of the security funds within ninety (90) days after exhaustion of all remedies relating to the termination of the Franchise, such funds and all accrued interest shall become the property of the Grantor.

754.4.1.8. The rights reserved to the Grantor with respect to the security fund are in addition to all other rights of the Grantor whether reserved by this agreement or authorized by law. No action, proceeding or exercise of a right with respect to such security fund shall constitute an election of remedies or a waiver of any other right the Grantor may have.

754.4.2. Indemnification

754.4.2.1. The Grantee shall, at its sole cost and expense, indemnify, hold harmless, release and defend Grantor, its officials, boards, commissions, employees and agents from and against any and all liability, loss, claims, suits, judgments, reasonable costs and attorneys fees, and damages of any kind alleged by a claimant against Grantor or Grantee to arise out of or through any of the following:

754.4.2.1.1. The action of the Grantor in granting the Franchise; and

754.4.2.1.2. The acts or omissions of the Grantee, its employees, officers or agents, arising out of the construction, installation, maintenance, operation or removal of the cable system, including damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of any structure, equipment, wire or cable installed; and

754.4.2.1.3. The acts or omissions of the Grantee, its employees, officers or agents, including any failure or refusal by the Grantee, its employees, officers or agents to comply with any obligation or duty imposed on the Grantee by this Agreement; and

754.4.2.1.4. Penalties arising out of Grantee's copyright infringement; and

754.4.2.1.5. Damages arising out of any failure by the Grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the cable system, whether or not any act or omission complained of is authorized, allowed or prohibited by this Agreement.

754.4.2.2. If a claim arises, the Grantor or any other indemnified party shall tender the defense of the claim to the Grantee. The Grantor may participate in the defense of a claim at Grantor's expense. Grantee may settle any claims affecting Grantor without the Grantor's approval or Grantee may relieve itself of all duty to defend and indemnify Grantor by paying to Grantor that sum which the claimant has offered to accept and which Grantee would have paid but for Grantor's objection.

754.4.2.3. The Grantee is not required to indemnify the Grantor for the unlawful activities, negligence or willful misconduct or ultra vires acts on the part of the Grantor's officials, boards, commissions, agents or employees, nor for their actions contrary to statutory or constitutional law.

754.4.2.4. The fact that the Grantee carries out any activities under the Franchise through independent contractors does not constitute an avoidance of or defense to its duty of defense and indemnification under this section. Notwithstanding anything contained herein, Grantee and such independent contractor shall not be considered partners, agents or joint employers.

754.4.2.5. Grantee shall not be required to indemnify Grantor for negligence or misconduct on the part of Grantor or its officials, boards, commissions, agents or employees (hereinafter "such acts"). Grantor shall hold Grantee harmless from any damage resulting from any such acts of the

Grantor or its officials, boards, commissions, agents or employees in utilizing any government or educational access channels, equipment, or facilities and for any such acts committed by Grantor in connection with work performed by Grantor and permitted by this Agreement, on or adjacent to the cable system.

754.4.3.Insurance.

754.4.3.1. The Grantee shall provide and maintain general liability, automobile and worker's compensation insurance in the following minimal amounts:

754.4.3.1.1. General liability, including comprehensive form, personal injury, broad form property damage, contractual, and premises/operation coverage in limits of One Million Dollars ($1,000,000.00) aggregate, bodily injury and property damage combined; and

754.4.3.1.2. Automobile liability in limits of One Million Dollars ($1,000,000.00) bodily injury and property damage combined; and

754.4.3.1.3. Worker's compensation insurance in at least the minimum statutory amounts.

754.4.3.2. All insurance policies shall specify Grantor, its elective and appointive boards, commissions, officers and employees as additional insured. A certificate of insurance shall be provided to the Grantor prior to performance pursuant to this agreement.

754.4.3.3. All insurance carriers providing the coverage described in this section shall be fully licensed to offer insurance in the State of Colorado.

754.5. DESIGN AND CONSTRUCTION REQUIREMENTS.

754.5.1.System Design.

The Cable System shall comply with the design and service requirements and schedules contained in this Agreement and described more fully in Exhibit A, presented in its entirety as section **754A**.

754.5.2.Geographical Coverage.

The Grantee shall design and construct the Cable System in such manner as to have the capability to pass by every single-family dwelling unit, multiple-family dwelling unit, school and public building within the franchise area; provided however that Grantee shall not be required to construct the Cable System in any area that is less than twenty (20) dwelling units per strand mile or an equivalent ratio thereof.

754.5.3.System Upgrade Schedule.

754.5.3.1. The Grantee shall comply with the requirements of the system upgrade schedule contained in this Agreement, section **754A.3.**

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754.5.3.2. Within thirty (30) days of the effective date of this Agreement, the Grantee shall provide copies of its detailed construction plan indicating the detailed construction progress schedule, area construction maps, test plan, and projected dates for offering service, for all work presently planned or in progress. With respect to system upgrades not yet undertaken, such information as described herein shall be provided within 120 days from the effective date of this Agreement. In addition, the Grantee shall update this information on at least a quarterly basis, by submitting a copy of its normal internal progress reports, showing specifically whether schedules are being met and the reasons for any delay.

754.5.4.Installation of Cable Underground.

Cable facilities shall be installed underground to the fullest extent possible. All underground cable shall be buried a minimum of twelve (12) inches below the surface. Non-aerial cable facilities (including cable running to individual homes and other structures) shall be installed underground at the Grantee's cost. Previously installed aerial cable shall be relocated in concert with other utilities at the Grantee's cost when such other utilities convert from aerial to underground construction. Grantor maintains the right to review and approve the Grantee's design for the installation of pedestal and/or vault facilities. Such approval shall be based upon standard cable industry design standards, and shall not be unreasonably withheld.

754.5.5.Installation of Cable Underground in New Developments.

Where electric or telephone utilities are to be placed underground in a new subdivision, the Grantor shall give each Grantee serving the franchise area within which the property is located at least seventy-two (72) hours notice of the date on which open trenching will be available for the Grantee's installation of conduit, pedestals, and vaults. On the

request of the Grantor or property owner, the Grantee shall provide specifications as needed for trenching.

754.5.6.Underground of Multiple-Dwelling Units.

In cases of single site multiple-dwelling units serviced by aerial utilities, the Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and dwelling unit where determined to be technologically feasible, in agreement with the owners and/or owner's association of the multiple-dwelling units.

754.5.7.Rights-of-Way Occupancy.

754.5.7.1. The Grantee shall utilize existing poles, conduits and other facilities whenever possible and economically feasible, and may not construct or install any new, different or additional poles, conduits or other facilities on public property until the written approval of the Grantor is obtained.

754.5.7.2. The Grantee shall:

754.5.7.2.1. Locate and install all transmission lines, equipment and structures so as to cause minimum interference with the rights and reasonable convenience of property owners; and

754.5.7.2.2. Keep and maintain all transmission lines, equipment and structures in a safe, adequate and substantial condition, and in good order and repair; and

754.5.7.2.3. Employ professional care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries or nuisances to the public; and

754.5.7.2.4. Use suitable barricades, flags, lights, flares or other devices as necessary for the safety of all members of the public; and

754.5.7.2.5. Place any poles or other fixtures in any public right-of-way in such manner as not to interfere with the usual travel of the right-of-way.

754.5.7.3. The Grantee may not make paving cuts or curb cuts unless absolutely necessary, and only after written permission has been given by the Grantor.

754.5.7.4. The Grantor may reasonably require conduit for underground cable in areas specified by the Grantor. For the purposes of this subsection, conduit shall be in the form of a steel sleeve when located under improved streets, and in such form as determined by the Grantee, with respect to other right-of-way locations.

754.5.7.5. Subject to the supervision and approval of the Grantor, the Grantee may trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

754.5.7.6. If requested by Grantor, before beginning any excavation or other construction activity on a public right-of-way or easement which crosses or abuts any private property, the Grantee shall clearly mark and delineate with flags, stakes or water-soluble spray paint the boundaries of that public right-of-way or easement where it abuts or crosses the public property.

754.5.7.7. The Grantee shall restore to a condition equal to the original condition any excavation or other disturbance of property within a public right-of-way or easement. Grantee shall advise the owners of property adjoining the excavated or disturbed sections of the right-of-way or the owners of property on which the easement is located that they may utilize the complaint procedure set forth in the consumer protection section of this Agreement.

754.5.8.Completion of Work by Grantor.

On reasonable written notice and on failure of the Grantee to commence, pursue or complete any work required by law or by the provisions of this Agreement to be done in any public right-of-way or public utilities easement, within the time prescribed and to the reasonable satisfaction of the Grantor, the Grantor may cause the work to be done. The Grantee shall pay to the Grantor the reasonable costs of the work in the itemized amount reported by the Grantor to the Grantee within thirty (30) days after receipt of the itemized report.

754.5.9.Relocation/Removal of Facilities.

754.5.9.1. On receipt of reasonable written notice, the Grantee at its own expense shall:

754.5.9.1.1. Protect, support, temporarily disconnect, relocate or remove any of its property as necessary because of traffic conditions, public safety, street vacation or street grade, separation or

realignment, installation of sewers, drains, water pipes, power line, signal line, transportation facilities, tracks or any other type of public improvements; and

754.5.9.1.2. Nothing described in this section shall be considered a taking of the property of the Grantee and the Grantee is not entitled to additional compensation because of these actions.

754.5.9.2. In any such notice from Grantor requiring relocation or removal of facilities, Grantor shall disclose to Grantee any other public projects planned, under consideration, or of which Grantor has knowledge, which may affect the manner and cost of the relocation or removal of Grantee's facilities.

754.5.10. Stop Work.

754.5.10.1. On notice from the Grantor that any work is being prosecuted contrary to the provisions of this Agreement, or in an unsafe or dangerous manner, the work may immediately be stopped by the Grantor.

754.5.10.2. The stop work order shall be:

- In writing; and
- Given to the individual doing the work or posted on the work site; and
- Sent to the Grantee; and
- Clearly indicate the nature of the alleged violation or unsafe condition; and
- State the conditions under which work may be resumed.

754.6. CONSTRUCTION AND TECHNICAL STANDARDS.

754.6.1.Construction Standards.

754.6.1.1. Grantee shall comply with all applicable Grantor construction codes and permit procedures. Grantor may charge reasonable permit and inspection fees to recover the nonrecurring inspection costs imposed by the construction of the Cable System.

754.6.1.2. All construction practices shall be in accordance with all applicable sections of federal and state Occupational Safety and Health Acts and any amendments thereto as well as all state and local codes where applicable.

754.6.1.3. All installation of electrical equipment shall be of a permanent nature, durable and installed in accordance with the provisions of the National Electrical Code as amended, and all applicable state and local codes.

754.6.1.4. Antenna supporting structures (towers) shall be erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, state and local codes or regulations.

754.6.1.5. All of the Grantee's plant and equipment, and work it performs, shall not unreasonably endanger or physically interfere with the rights of any property owner, or hinder or obstruct pedestrian or vehicular traffic.

754.6.1.6. The Grantee shall at all times employ professional care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

754.6.2.Technical Standards.

The Cable System shall meet or exceed the technical and performance standards of the Federal Communications Commission, Part 76, Subpart K, as a minimum.

754.6.3.Test and Compliance Procedure.

Grantee shall comply with all applicable FCC technical regulations, including but not necessarily limited to 47 C.F.R. Parts 76 and 78, as they may be amended from time to time. Within thirty (30) days of written request from the Grantor, Grantee shall provide a description of the tests which it conducts from time to time pursuant to applicable FCC regulations, together with results of any tests so conducted. Grantee will, at a minimum, perform those tests described in 47 C.F.R. § 76.601, et seq. relating to the technical and performance standards described in 47 C.F.R. § 76.605(a)(2) (aural carrier center frequency), 47 C.F.R. § 76.605(a)(4) (visual and aural carrier; 24 hour variation), 47 C.F.R. § 76.605(a)(7) (carrier to noise ratio), 47 C.F.R. § 76.605(a)(8) (modulation distortions), 47 C.F.R. § 76.605(a)(10) (hum), and the testing requirements

described in 47 C.F.R. § 76.614 (signal leakage), as modified in 47 C.F.R. § 76.601(e). These tests shall be performed in accordance with the above-referenced regulations as they exist now, or as they may be amended from time to time, regardless of whether or not any exemptions from the testing obligations are made available to small system operators in those regulations.

754.6.4.Additional Tests.

At any time after commencement of service to subscribers, the Grantor may require additional tests, full or partial repeat tests, different test procedures or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence indicating any unresolved controversy or significant noncompliance, and such tests shall be limited to the particular matter in controversy. The Grantor shall endeavor to so arrange its request for such special tests so as to minimize hardship or inconvenience to Grantee or to the subscriber. In the event that the requests for additional tests are deemed by Grantee to be inappropriate or unnecessary pursuant to this subsection, the parties agree to resolve their differences pursuant to arbitration as described in Section **754.12.3.**

754.6.5.Maintenance Inventory.

Grantee shall undertake a maintenance inventory of the entire cable communications system within three (3) months of the effective date of this Agreement. The purpose of this inventory is to identify problems and potential problems with the maintenance of the system, and to prioritize those items needing repair and replacement. All such repair and replacement necessary to keep the system operating in accordance with FCC regulations, and in order to meet all requirements of applicable uniform codes, shall be completed within nine (9) months of the effective date of this Agreement. At the time of completion, Grantee shall notify Grantor at least ten days prior to the time it conducts a final inspection. Grantor shall, at its option, be permitted to have its engineer or other representative accompany Grantee on such final inspection. Until final inspection, Grantee shall report to Grantor, every two (2) months, regarding the status of the maintenance inventory, and the results through each reporting period.

754.7. SERVICE REQUIREMENTS.

754.7.1.Public, Educational and Government (PEG) Access Facilities.

The Grantee shall provide the resources for PEG Access facilities including channel capacity, and either funding for, or the provision of, the necessary interface equipment and cabling to permit operation as specified herein.

754.7.2.PEG Access Channel.

No later than three (3) months after the effective date of this Agreement, Grantor may request and Grantee shall provide one (1) video channel for PEG use by Grantor.

754.7.3.Grant for PEG Access Equipment.

No sooner than one (1) month after the effective date of this Agreement, Grantee shall provide a grant of Five Thousand Dollars ($5,000.00), to be utilized by Grantor for PEG access equipment. Operating expenses related to the use of these capital funds shall be the sole responsibility of the Grantor. The funds referred to in this paragraph are intended to conform with the provisions of Section 611 of the Cable Communications Policy Act of 1984, and further are intended to be payments of the type described in Section 622(g)(2)B) and (C) of said Act, and not to be or to constitute franchise fees.

754.7.4.One-Time Only Basis.

The grant of **section 754.7.3.** shall be provided on a one-time only basis.

754.7.5.PEG Operations.

Grantor may negotiate agreements with any neighboring jurisdictions, educational institutions or others to share operating expenses as appropriate. Grantor and Grantee may negotiate an agreement for management of PEG facilities, if so desired by the parties.

754.7.6.Relocation of PEG Channels.

If Grantee relocates any PEG access channel to a different channel number, Grantee shall reimburse Grantor for any out-of-pocket Grantor costs incurred as a result of the relocation, not to exceed the sum of $1,500.00. Grantee shall provide Grantor and all subscribers with at least thirty (30) days written notice of such relocation.

754.7.7.Promotion of PEG Access.

Grantee shall allow the Grantor to place bill stuffers related to PEG access in Grantee's subscriber statements at a cost to the Grantor not to exceed Grantee's cost, no more than twice per year upon the written request of the Grantor and at such times that the placement of such materials would not effect Grantee's cost for the production and mailing of such statements. The Grantor agrees to pay Grantee in advance for the actual cost of such bill stuffers. Grantee shall also make available access information provided by Grantor in subscriber packets at the time of installation. Grantee shall also include a listing of the known programming to be cablecast on PEG access channels in any program guide of services that Grantee independently produces or publishes for the Cable System.

754.7.8.PEG Access Facility Management.

The Grantor may delegate the responsibility for PEG access facility management to a nonprofit entity that it designates or establishes.

754.7.9.Review of PEG Access Management.

754.7.9.1. The Grantor may review the activities of each PEG access facility management entity to determine if it is performing its purposes in a manner satisfactory to the Grantor.

754.7.9.2. If the PEG access facility management entity is not performing satisfactorily, the Grantor may receive and reallocate all or a portion of the channel capacity, operations appropriation and capital appropriation, including any facilities and equipment purchased previously with an appropriation to another PEG access facility management entity.

754.8. CONSUMER PROTECTION.

754.8.1.Consumer Service Standards.

Grantee shall provide the necessary facilities, equipment and personnel to comply with the following consumer protection and service standards under normal conditions of operations:

754.8.1.1. Sufficient customer service representatives and toll-free telephone line capacity during normal business hours to assure that a minimum of ninety-five percent (95%) of all calls will be answered before the fourth (4th) ring and ninety percent (90%) of all callers for service will not be required to wait more than thirty (30) seconds before being connected to a service representative. No more than three percent (3%) of the callers shall receive a busy signal during the time that Grantee's office is open for business.

754.8.1.2. Emergency toll-free telephone line capacity on a twenty-four (24) hour basis, including weekends and holidays.

754.8.1.3. An emergency system maintenance and repair staff, capable of responding to major system malfunctions within four (4) hours after notice, if such notice is provided between the hours of 7:00 a.m. and 5:00 p.m. If such notice is provided to Grantee between the hours of 5:00 p.m. and 7:00 a.m., response to the major system malfunction shall be made no later than 11:00 a.m. following such notice.

754.8.1.4. An installation staff, capable of installing service to any subscriber within seven (7) days after receipt of a request, in all areas where trunk and feeder cable have been activated. Except as otherwise provided in Section **754.5.2.**, in no event shall the time to install or initiate new service exceed thirty (30) days from the date of receipt of the request.

754.8.1.5. At the subscriber's request, Grantee shall schedule, within a specified four (4) hour time period, all appointments with subscribers for installation of service.

754.8.2.Cable Service and Repair Standards.

754.8.2.1. Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions, insofar as possible, shall be preceded by notice and shall occur during a period of minimum use of the cable system, preferably between midnight and six A.M. (6:00 A.M.)

754.8.2.2. The Grantee shall maintain a written log, or an equivalent stored in computer memory and capable of access and reproduction in printed form, for all service interruptions and requests for service that result in a service call.

754.8.2.3. The Grantee shall maintain a repair force of technicians normally capable of responding to subscriber requests for service within the following time frames:

754.8.2.3.1. For a system outage: Within eight (8) hours, including weekends and holidays, of

receiving subscriber calls or requests for service which by number identify a system outage of sound or picture of all channels, affecting at least ten (10) subscribers of the system.

754.8.2.3.2. For an isolated outage: Within twenty-four (24) hours, excluding weekends and holidays, of receiving requests for service identifying an isolated outage of sound or picture for one (1) or more channels that affects three (3) or more subscribers. On weekends and holidays, an outage affecting fewer than three (3) subscribers shall result in a service call no later than the next business day.

754.8.2.3.3. For inferior signal quality: Within forty-eight (48) hours, excluding weekends and holidays, of receiving a request for service identifying a problem concerning picture or sound quality, affecting any subscriber.

754.8.2.3.3.1. Grantee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives at the service location and begins work on the problem. In the case of a subscriber not being home when the technician arrives, response time shall be extended twenty-four (24) hours to another appointed time if the technician leaves written notification of arrival and return time. Three (3) successive subscriber failures to be present at an appointed time shall excuse Grantee of duty to respond. In addition to legally permissible charges that may be made by Grantee to the subscriber in connection with a service call, Grantee may, to the extent not prohibited by federal law, make such additional charges to the subscriber for reasonable service charges incurred by Grantee resulting from a subscriber's failure to be present for a service call at a pre-arranged time and place.

754.8.2.3.3.2. Unless otherwise permitted by federal law, Grantee shall not charge for the repair or replacement of defective equipment provided by Grantee to subscribers, unless such equipment has been abused, tampered with or damaged by the subscriber.

754.8.2.4. Unless excused or technically infeasible, Grantee shall determine the nature of the problem within forty-eight (48) hours of beginning work, and resolve all cable system related problems within five (5) business days . Failure to resolve Cable System related problems within thirty (30) days shall be a material breach of this Agreement, unless such failure is excused by Grantor or technically infeasible.

754.8.2.5. Grantee shall, at a minimum, maintain its current policy of providing credit at customer request for cable service problems that are not repaired within 48 hours from the time the problem is reported, provided that the Grantee has been given access to property necessary to effect the repair.

754.8.3.Verification of Compliance.

Grantee shall not be required to acquire equipment necessary to perform compliance measurements on response time to customer inquiries, or to actually measure compliance times as required herein, unless a historical record of complaints indicates a clear failure to comply. In such case, proof of compliance may be required by Grantor.

754.8.4.Non-Compliance with Standards.

A repeated and verifiable pattern of non-compliance with the consumer protection standards of Sections **754.8.1.** and **754.8.2.** above, after Grantee's receipt of due notice and an opportunity to cure, may be deemed a material breach of this Agreement.

754.8.5.Complaint Procedure.

Grantee shall establish written procedures for receiving, acting upon and resolving subscriber complaints without intervention by the Grantor. The written procedures shall prescribe the manner in which a subscriber may submit a complaint either orally or in writing specifying the subscriber's grounds for dissatisfaction. These procedures shall comply with all standards and specifications of this Agreement. Grantee shall file a copy of these procedures with Grantor.

754.8.6.Notices.

754.8.6.1. As subscribers are connected or reconnected to the Cable System, and at least once annually thereafter, the Grantee shall provide each subscriber with written information concerning the following: (1) products and services offered; (2) prices and options for programming services and conditions of subscription to programming and other services; (3) installation and service maintenance policies; (4) instructions on how to use the cable service; (5) channel positions of programming; and (6) billing and complaint procedures, including the name, address and toll free telephone number of the employee, employees or agent to whom such

inquiries or complaints are to be addressed, and also the Grantor office responsible for administration of the franchise with the name and telephone number of the office. The notice shall also indicate Grantee's business hours, legal holidays and procedures for responding to inquiries after normal business hours.

754.8.6.2. The Grantee shall provide all subscribers and the Grantor written notice no less than thirty (30) days prior to any proposed change in these policies.

754.8.7.Continuity of Service.

754.8.7.1. Subject to applicable law, it shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to rebuild, modify, or sell the Cable System, or the Grantor gives notice of intent to lawfully terminate or not to renew the franchise, the Grantee shall act so as to ensure that all subscribers receive service so long as this Agreement remains in force.

754.8.7.1.1. In the event of a change of control of Grantee, or in the event a new operator acquires the Cable System, the Grantee shall cooperate with the Grantor, and the new Grantee or operator in maintaining continuity of service to all subscribers. During such period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System.

754.8.7.2. In the event Grantee fails to operate the Cable System for seven (7) consecutive days without prior approval or subsequent excusal of the Grantor, the Grantor may, at its sole option, operate the Cable System or designate an operator until such time as Grantee restores service under conditions acceptable to the Grantor or a permanent operator is selected. If the Grantor should fulfill this obligation for the Grantee, then during such period as the Grantor fulfills such obligation, the Grantor shall be entitled to collect all revenues from the Cable System.

754.8.8.Changes in Rates.

At least thirty (30) days prior to the effective date of any rate changes, Grantee shall provide notification to all subscribers of any changes in rates, programming services or channel positions. Such notification shall be made to each subscriber in writing, and through announcements on the cable system.

754.8.9.Billing.

Grantee's billing will meet all requirements of 47 C.F.R. § 76.309(c)(3)(B), and any other provisions of federal law as may be in effect from time to time.

754.8.10. Annual Review of Performance and Quality of Service.

754.8.10.1. At the Grantor's sole option, each year throughout the term of the franchise, Grantor and Grantee shall meet publicly to review system performance and quality of service.

754.8.10.2. The various reports required pursuant to this Agreement, results of technical performance tests, the record of subscriber complaints and Grantee's response to complaints, and the information acquired in any subscriber surveys, shall be utilized as the basis for review. In addition, any subscriber may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered. Within thirty (30) days after conclusion of system performance review meeting, Grantor may issue findings with respect to the Grantee's compliance with this Franchise Agreement and quality of service.

754.8.10.3. If Grantor determines that Grantee is not in compliance with the requirements of this Agreement, Grantor may direct Grantee to correct the areas of noncompliance within a reasonable period of time. Failure of Grantee, after due notice, to correct the areas of noncompliance within the period specified therefor or to commence compliance within such period and diligently achieve compliance thereafter, shall be considered a material breach of this Agreement.

754.9. OPERATION AND MAINTENANCE

754.9.1.Books and Records.

The Grantor, upon reasonable advance notice, shall have the right to inspect at any time during normal business hours all Grantee books, records, maps, plans, service complaint logs, performance test results and other like materials which relate to the operation of the Cable System and are related to Grantor's legal regulatory authority, provided that Grantor and its authorized agents shall maintain the confidentiality of any trade secrets or other proprietary information in the possession of the Grantee and provided, further, that records shall be exempt from inspection pursuant to this section to the extent required by applicable law regarding

subscriber privacy, and to the extent such records are protected by law against discovery in civil litigation.

754.9.2.Records Required.

754.9.2.1. In any event, the Grantee shall at all times maintain:

754.9.2.1.1. The complaint file required by Section **754.10.4.**; and

754.9.2.1.2. A full and complete set of plans, records and "as built" maps showing the exact location of all Cable System equipment installed or in use in the franchise area, exclusive of subscriber service drops and equipment provided in subscriber's homes.

754.10. REPORTS.

754.10.1. Annual Reports.

754.10.1.1. Within ninety (90) days after the close of Grantee's fiscal year, the Grantee shall submit a written annual report including, but not limited to, the following information for the franchise area:

754.10.1.1.1. A summary of the previous year's activities in development of the Cable System, including, but not limited to, services begun or discontinued during the reporting year, and the number of subscribers for each class of service; and

754.10.1.1.2. A statement of projected construction, if any, for the next two (2) years.

754.10.1.2. In the event of a request by Grantor within ninety (90) days after the close of Grantee's fiscal year, Grantee shall additionally provide the following information to the Grantor:

754.10.1.2.1. A list of Grantee's officers, members of its boards of directors, and other principals of the Grantee; and

754.10.1.2.2. A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in the Grantee and its parent, subsidiary and affiliated corporations and other entities, if any, unless the parent is a public corporation whose annual reports are publicly available, in which case a copy of the annual report shall be submitted.

754.10.2. Service Requirements/Technical Standards Report.

At the Grantor's request, Grantee shall submit to the Grantor information in sufficient detail to enable the Grantor to ascertain that the service requirements and technical standards of this Agreement are achieved and maintained. If Grantor has reason to believe that portions or all of the Cable System do not meet the FCC technical standards incorporated into this Agreement, at Grantor's request, but no more often than once per three years, the Grantee and the Grantor shall agree upon the appointment of a qualified independent engineer to evaluate and verify the technical performance of the Cable System. The cost of the evaluation shall be borne equally by the Grantee and the Grantor.

754.10.3. Copies of Federal and State Reports.

The Grantee is required to submit to the Grantor copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by the Grantee to, as well as copies of all decisions, correspondence and actions by, any federal, state and local courts, regulatory agencies and other government bodies relating to the operations of its Cable System within the franchise area. Grantee shall submit such documents to the Grantor no later than thirty (30) days after receipt of a Grantor request. The Grantee may not claim confidential, privileged or proprietary rights to such documents unless such rights are determined to be confidential by law or by the practices of federal and state agencies. Such confidential data exempt from public disclosure shall be retained in confidence by the Grantor and its authorized agents and shall not be made available for public inspection.

754.10.4. Complaint File and Reports.

754.10.4.1. The Grantee shall keep an accurate and comprehensive file of any and all complaints regarding the Cable system that result in a service call, in a manner consistent with the privacy rights of subscribers, and the Grantee's actions in response to those complaints.

754.10.4.2. Upon Grantor request, a summary of service requests, identifying the number and nature of the requests and their disposition, shall be completed for each quarter and submitted to the Grantor by the twentieth (20th) day of the succeeding month.

754.10.4.3. A log of all service interruptions shall be maintained, to the extent not maintained in subscriber records.

754.10.5. Inspection of Facilities.

The Grantor may inspect any of the Grantee's physical system facilities and equipment at any time upon at least forty-eight (48) hours notice, or, in case of emergency, upon demand without prior notice.

754.10.6. Failure to Report/False Statements.

The unexcused willful refusal or failure of the Grantee to file any of the reports reasonably required, or such other reports as the Grantor may reasonably request, or any materially false or misleading statement or representation made knowingly and willingly by the Grantee in any report required by this Agreement may be deemed a material breach of this Agreement.

754.10.7. Cost of Reports.

One (1) copy of all reports and records required under this or any other section shall be furnished to the Grantor at the sole expense of the Grantee.

754.11. FRANCHISE BREACHES; TERMINATION OF FRANCHISE.

754.11.1. Procedure for Remedying Franchise Violations.

754.11.1.1. If the Grantor has reason to believe that the Grantee has failed to perform any obligation under this Agreement or has failed to perform in a timely manner, the Grantor may make written demand on the Grantee that it remedy the alleged failure. If the alleged failure is denied or not remedied to the satisfaction of the Grantor, the Grantor shall follow the procedures set forth in this section.

754.11.1.2. An informal meeting may be held to review the alleged failure. If the meeting does not result in a satisfactory resolution, the Grantee may request and the Grantor may require an administrative hearing to determine if the failure occurred. The Grantee shall be provided with thirty (30) days written notice of the time and the place of the hearing, the allegations of failure and the possible consequence if found to be true.

754.11.1.3. After notice is given and an administrative hearing is held, the Grantor shall determine whether the failure occurred and constitutes a default or material breach of this Agreement as described in Section **754.11.3.1.**, or was excusable. Grantor may order the Grantee to correct or remedy the failure within the reasonable time and in the manner and on the terms and conditions that the Grantor may establish, or, in its sole discretion, Grantor may find a default or material breach of this Agreement.

754.11.1.4. If the Grantor determines that the failure was a default or material breach, the Grantor may:

754.11.1.4.1. Assess against the Grantee monetary damages as provided in Section 11.2; and/or

754.11.1.4.2. Consider the revocation of the franchise as provided in Section **754.11.3.**; and/or

754.11.1.4.3. Pursue any other legal or equitable remedy available under the franchise or any applicable law.

754.11.2. Assessment of Monetary Damages.

754.11.2.1. The Grantor may assess against the Grantee monetary damages up to One Hundred Dollars ($100.00) per day for material system upgrade/construction delays, and for any other material breaches. These damages may be levied against the security fund and collected as specified in Section **754.4.1.**

754.11.2.2. The assessment does not constitute a waiver by the Grantor of any other right or remedy it may have under the Franchise or applicable law including its right to recover from the Grantee any additional damages, losses, costs and expenses, including actual attorney's and/or consultant fees that are incurred by the Grantor by reason arising out of the breach of this Agreement.

754.11.3. Revocation.

754.11.3.1. Grantor may revoke this Agreement and rescind all rights and privileges associated with this Agreement in the following circumstances, each of which represents a default or a material breach of this Agreement;

754.11.3.1.1. If the Grantee fails to perform any of its material obligations under this Agreement or under any legal ordinances, documents and other terms and provisions entered into by and between the Grantor and the Grantee; or

754.11.3.1.2. If there is a repeated and verifiable pattern of noncompliance with the consumer service standards set forth in Section **754.8.**; or

754.11.3.1.3. If the Grantee fails to provide continuous and uninterrupted cable service; or

754.11.3.1.4. If the Grantee practices any fraud or deceit upon the Grantor or any subscriber; or

11.3.1.5. If the Grantee becomes insolvent, or if there is a listing of an order for relief in favor of the Grantee in a bankruptcy proceeding.

754.11.3.2. After completing the procedures provided in Section **754.11.1.**, the Grantor may place a request for revocation of the Franchise before the Board. The Board shall cause written notice of its intent to consider revocation to be served on the Grantee at least twenty (20) days prior to the date of the hearing. The notice shall contain the time and place of the hearing and shall be published at least once, ten (10) days before the hearing in a newspaper of general circulation within the franchise area.

754.11.3.3. The Board shall hear any persons interested in the revocation, and within ninety (90) days shall determine, based on the preponderance of the evidence, whether the Grantee has committed a material breach of this Agreement.

754.11.3.4. If the Grantor determines that the Grantee has committed a material breach, then the Grantor may:

754.11.3.4.1. Declare that the Franchise is revoked and the security funds forfeited; or

754.11.3.4.2. If the material breach is capable of being cured by the Grantee, direct the Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the Grantor determines are reasonable under the circumstances.

754.11.4. Procedures in the Event of Termination.

754.11.4.1. If this Agreement expires without renewal or is otherwise lawfully terminated, the Grantor may, subject to applicable law:

754.11.4.1.1. Allow the Grantee to maintain and operate its Cable System on a month-to-month or short-term extension of this Agreement; or

754.11.4.1.2. Order the removal of the above-ground system facilities from the franchise area within a reasonable period of time as determined by the Grantor.

754.11.4.2. In removing its plant, structures and equipment, the Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all streets and public places in as good a condition as that prevailing prior to the Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the security fund shall remain in full force and effect during the period of removal.

754.11.4.3. If the Grantee fails to complete any removal required by this section, or any work required by law within ninety (90) days after receipt of written notice and to the satisfaction of the Grantor, the Grantor may cause the work to be done and:

754.11.4.3.1. The Grantee shall reimburse the Grantor for the reasonable costs incurred within thirty (30) days after receipt of an itemized list of the costs; or

754.11.4.3.2. The Grantor may recover the costs through the security fund provided by the Grantee.

754.11.4.4. The Grantor may seek legal and equitable relief to enforce the provisions of this section.

754.11.5. Receivership and Foreclosure.

754.11.5.1. At the option of the Grantor, subject to applicable law, this Agreement may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

754.11.5.1.1. The receivership or trusteeship is vacated within one hundred twenty (120) days; or

754.11.5.1.2. The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Agreement, and have remedied all defaults under the Agreement. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Agreement.

754.11.5.2. If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of the Grantee, the Grantor may serve notice of revocation on the Grantee and to the purchaser at the sale, and the rights and privileges of the Grantee under this Agreement shall be revoked thirty (30) days after service of such notice, unless:

754.11.5.2.1. The Grantor has approved the transfer of the Franchise, in the manner provided herein; and

754.11.5.2.2. The purchaser has covenanted and agreed with the Grantor to assume and be bound by all of the terms and conditions of this Agreement.

754.11.6. Force Majeure.

754.11.6.1. If Grantee's performance of any of the terms, conditions, obligations or requirements of this Agreement is prevented or impaired due to any cause beyond Grantee's reasonable control, or any cause not reasonably foreseeable, the failure to perform shall be excused and penalties or sanctions shall not be imposed.

754.11.6.2. The Grantee shall notify the Grantor in writing as soon as possible after the occurrence of such a failure.

754.11.6.3. A failure by the Grantee to so notify the Grantor shall not act as a waiver of any of its rights under this section or stop it from asserting those rights.

754.11.7. Nonenforcement by the Grantor.

Grantee is not relieved of its obligation to comply with any of the provisions of this Agreement or the franchise code by reason of any failure of the Grantor to enforce prompt compliance. Grantor's forbearance or failure to enforce the provisions of this Agreement shall not serve as a basis to stop any subsequent enforcement.

754.12. SEVERABILITY AND CHALLENGE.

754.12.1. Severability.

If any section, subsection, paragraph, term or provision of this Agreement is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction thereof, except as expressly provided in Sections **754.12.2.** and **754.12.3.**, such determination shall have no effect on the validity of any other section, subsection, paragraph term or provision of this Agreement, all of which will remain in full force and effect for the term of the Agreement, or any renewal or renewals thereof.

754.12.2. Challenge.

754.12.2.1. If either party intends to challenge the validity of this Agreement or any provisions hereof, whether by means of initiating legal action or otherwise asserting such invalidity in any otherwise pending action, prior to initiating any legal action or asserting the invalidity, that party shall give written notice to the other party of its intent to challenge one (1) or more of the provisions of this Agreement. The notice shall identify with specificity the provision or provisions of this Agreement which the challenging party asserts are invalid and shall contain a statement of the legal and factual basis for its assertion of invalidity. At the request of the other party , the two parties shall meet to discuss the proposed challenge(s) including, but not limited to, negotiation of alternative or additional modifications to this Agreement mutually satisfactory to the parties, either in lieu of deletion or modification of the challenged provision or in addition to its deletion or modification are in order.

754.12.2.2. Within twenty (20) days of receipt of such notice, unless such time is extended by mutual agreement of the parties, the parties shall take one (1) of the following actions:

754.12.2.2.1. The non-challenging party will notify the challenging party that it will not agree to delete or modify the challenged provision. Upon receipt of such notice, the challenging party may take such legal action as it deems appropriate; or,

754.12.2.2.2. The parties may agree to delete or modify the challenged provision as requested by the challenging party; or

754.12.2.2.3. The parties may agree to implement such other modifications to this Agreement in order to resolve the proposed challenge.

754.12.2.2.4. In the event of agreement under sections **754.12.2.2.2.** or **754.12.2.2.3.**, Grantor shall prepare and adopt appropriate amendments to this Agreement.

754.12.2.3. Failure to comply with the provisions of this section shall constitute failure to exhaust administrative remedies and may be asserted as a defense in any action challenging the validity of any term or provision of this Agreement. Should either party challenge a provision of this Agreement, it is understood that the other party shall not bring legal action of any kind against the other party in connection with the specific provision being challenged, during the time period in which the procedures of Section **754.12.2.** are being followed.

754.12.3. Effect of Adverse Judicial Rulings/Arbitration.

754.12.3.1. If any provision of this Agreement is invalidated by a court of law or administrative tribunal, the parties agree to enter into good faith negotiations intended to cure the legal impediment in a manner which continues to reflect the intent of the parties in entering into this Agreement. If, after good faith negotiations, the parties are unable to cure the legal impediment in a manner which reflects the intent of the parties, the parties agree to enter into binding arbitration pursuant to the Colorado Uniform Arbitration Act, C.R.S. § 13-22-201, et seq.

754.12.3.2. An arbitration proceeding shall be commenced by either party notifying the other in writing of its intent to pursue arbitration, and the specific issue in dispute which will be the subject of the arbitration proceeding. Within fifteen days after the date of the notice, each party shall provide written notice to the other of the name and address of its chosen arbitrator.

754.12.3.3. In selecting arbitrators, Grantor and Grantee shall each select one arbitrator, and the two arbitrators shall select the third arbitrator. Each arbitrator shall have familiarity with cable television franchising issues.

754.12.3.4. Within fifteen days of their appointment, the two chosen arbitrators shall jointly select the third arbitrator and shall so notify the parties. Written position statements shall be provided to each of the arbitrators, with copies sent to the opposing party, within twenty-one (21) days of the date that the third arbitrator is selected. The arbitrators shall schedule a hearing, unless waived by the parties and determined not to be necessary by the arbitrators, and issue a written ruling within one hundred twenty (120) days after the selection of the third arbitrator. A concurring vote of at least two arbitrators shall be necessary for a decision.

754.12.3.5. Each party shall incur all the costs of its chosen arbitrator, and the parties shall share equally in the cost of the third arbitrator. The arbitrators shall have the power to require payment of the prevailing party's attorneys' fees by the other party.

754A – CABLE TV EXHIBIT:

CABLE SYSTEM UPGRADE REQUIREMENTS AND SCHEDULE

754A.1. UPGRADE REQUIREMENTS.

754A.1.1. Grantee's cable system serving Limon, Colorado, shall be upgraded and/or rebuilt to provide a system capacity of at least twenty-seven (27) video channels, corresponding to an operating frequency range up to Two hundred fifty-three Megahertz (253 Mhz) in accordance with the schedule contained in section **754A.3.**

754A.1.2. No later than the completion date of the system upgrade, Grantee shall provide the capability to transmit an emergency alert signal to all participating subscribers, in the form of an audio override which permits Grantor to interrupt and cablecast a spoken message on all channels simultaneously in the event of disaster or public emergency.

754A.1.3. As provided in Section **754.6.2.**, the Federal Communications Commission (FCC) Rules and Regulations, Part 76, Subpart K (Technical

Standards) and any amendments thereto, shall apply, to the extent permitted by applicable law.

754A.1.4. Grantee's cable system shall be further upgraded and/or rebuilt to provide programming of at least thirty-five (35) video channels, corresponding to an operating frequency range up to Three Hundred Megahertz (300 Mhz) on or before the fifth anniversary of the effective date of this Franchise Agreement.

754A.2. SERVICE REQUIREMENTS.

754A.2.1. Subject to applicable law, service shall be provided to all residents of the Town in accordance with the line extension policy described in section 754A.2.2. However, the Grantee shall not be required to offer service to any residences already served by another Grantee.

754A.2.2. The Grantee's line extension policy shall be as follows: In those portions of the Franchise area, including areas hereafter annexed by the Town, that consist of raw land presently or at the time of annexation, the Grantee shall install cable television lines and equipment at the same time that electric and telephone utilities are laid (using the same trenches and/or poles, if possible), and shall commence cable service as homes are built and occupied. In those portions of the Franchise area where homes are already built presently or at the time of annexation by the Town, Grantee shall extend its lines as necessary to make cable service available to each and every home within the Franchise area, except as provided in Section **754.5.2.**, within the time periods required by Section **754.8.1.4.** Reasonable extensions of time will be permitted when necessary due to weather conditions.

754A.2.3. Grantee shall provide one (1) free connection, and the highest level of basic cable service at no charge to the public buildings within the Town listed in section **754A.3.2.**

754A.2.4. No later than the date of completion of the system upgrade, Grantee shall provide a reverse (upstream) connection to the locations listed in section **754A.3.2.2.** to permit live or taped video programming to be transmitted from these locations to the cable system head end, for viewing by the system subscribers.

754A.3. UPGRADE/CONSTRUCTION SCHEDULE.

754A.3.1. The first part of the system upgrade (section **754A.3.2.**) shall be completed throughout the Town of Limon by not later than five (5) months after the effective date of this Agreement, in accordance with the schedule indicated above. Completion is defined as the availability of the upgraded service to one hundred percent (100%) of the residences in the Town.

754A.3.2. Figure A.

754A.3.2.1. Reception Locations:

- Limon Town Hall
- Limon Elementary School
- Limon High School Board of Cooperative Educational Services Building
- Limon Municipal Library
- Limon Community Building
- Limon Volunteer Fire Department / Emergency Services Building

754A.3.2.2. Origination Locations

- Limon Town Hall
- Limon High School

754A.3.3. System Upgrade Schedule

754A.3.3.1. Channel Capacity. The upgrade to provide system capacity of at least twenty-seven (27) video channels shall be completed on or before December 31, 1993.

754A.3.3.2. Trunk Cable Replacement. Grantee has been in the process of replacing all of its trunk cable within the Franchise area. The trunk cable replacement shall be completed on or before December 31, 1993.

754A.3.3.3. Maintenance and upgrades necessary to reduce the amount of signal leakage to levels within FCC standards, for motels and other like structures within the Town, will be completed on or before December 31, 1993.

754A.3.3.4. The second part of the system upgrade, providing for programming on thirty-five (35) channels, shall be completed no later than the fifth anniversary date from the effective date of this Franchise Agreement.

754A.3.3.5. PEG Access. All upgrades and improvements necessary to comply with the PEG access requirements of the Franchise Agreement shall be completed on or before December 31, 1993; provided, however, that Grantee shall undertake all necessary excavation work to provide the upgrades and improvements to comply with the PEG access requirements prior to the onset of any weather conditions that might delay completion. There shall be no delays for weather problems and ground conditions for the provision of the PEG access requirements past December 31, 1993.

760 – Adult Entertainment Establishments

(Added January 6, 2005 by Ordinance No. 498.)

760.1. PURPOSE.

The purpose and intent of this section is to regulate adult businesses, to promote the health, safety, morals and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult businesses within the Town, thereby reducing or eliminating the adverse secondary effects from such adult businesses. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to adult materials protected by the First Amendment or the Colorado constitution, or to deny access by the distributors and exhibitors of adult entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

760.2. DEFINITIONS:

760.2.1.ADULT ARCADE: 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 (5) 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".

760.2.2.ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE: A commercial establishment which a) devotes a significant or substantial portion of its stock-in-trade or interior floor space to; b) receives a significant or substantial portion of its revenues from; or c) 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". 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 hereof are otherwise met.

760.2.3.ADULT BUSINESS: An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or nude model studio. The definition of "adult 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.

760.2.4.ADULT CABARET: A club, restaurant, "pop shop", or similar commercial establishment which features: a) persons who appear nude or in a state of nudity or semi-nude; b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or c) 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".

760.2.5.ADULT MOTEL: A motel, hotel or similar commercial establishment which: a) 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 adult 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 b) offers a sleeping room for rent for a period of time less than ten (10) hours; or c) allows a tenant or occupant to subrent a sleeping room for a time period of less than ten (10) hours.

760.2.6.ADULT MOTION PICTURE THEATER: 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.

760.2.7.ADULT THEATER: 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".

760.2.8.EMPLOYEE: A person who works or performs in and/or for an adult business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

760.2.9.ESTABLISHMENT: In regard to an adult business, means and includes any of the following:

760.2.9.1. The opening or commencement of any such business as a new business;

760.2.9.2. The conversion of an existing business into an adult business;

760.2.9.3. The addition of an adult business to any other existing adult business; or

760.2.9.4. The relocation of an adult business.

760.2.10. LICENSING OFFICER: The Town Clerk.

760.2.11. MANAGER: An operator, other than a licensee, who is employed by an adult business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

760.2.12. NUDE MODEL STUDIO: 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.

760.2.13. NUDITY OR STATE OF NUDITY: a) The appearance of human bare buttocks, anus, male genitals, female genitals or the areola or nipple of the female breast; or b) 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.

760.2.14. OPERATOR: Includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

760.2.15. PEEP BOOTH: A viewing room of less than one hundred fifty (150) square feet of floor space.

760.2.16. PERMITTEE AND/OR LICENSEE: A person in whose name a permit and/or license to operate an adult business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

760.2.17. PERSON: An individual, proprietorship, partnership, corporation, limited liability company, association or other legal entity.

760.2.18. PREMISES OR PERMITTED OR LICENSED PREMISES: Any premises that requires a license and/or permit and that is classified as an adult business.

760.2.19. PRINCIPAL OWNER: Any person owning, directly or beneficially, a) ten percent (10%) or more of a corporation's equity securities; b) ten percent (10%) or more of the membership interests in a limited liability company; or c) in the case of any other legal entity, ten percent (10%) or more of the ownership interests in the entity.

760.2.20. PRIVATE ROOM: 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.

760.2.21. SEMINUDE: 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.

760.2.22. SEXUAL ENCOUNTER ESTABLISH-MENT: A business or commercial establishment, that as one of its primary business purposes, offers, for any form of consideration, a place where two (2) 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 seminude. An adult motel will not be classified as a sexual encounter establishment by virtue of the fact that it offers private rooms for rent.

760.2.23. SEXUAL ORIENTED BUSINESS: This term shall have the same meaning as an Adult Entertainment Establishment as regulated by this code.

760.2.24. SPECIFIED ANATOMICAL AREAS: (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 discernibly turgid state, even if completely and opaquely covered.

760.2.25. SPECIFIED CRIMINAL ACTS: Sexual crimes against children, sexual abuse, rape or crimes connected with another adult business, including distribution of obscenity, prostitution, or pandering.

760.2.26. SPECIFIED SEXUAL ACTIVITIES: (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 subsections (A) through (D) of this definition.

760.2.27. TRANSFER OF OWNERSHIP OR CONTROL OF AN ADULT BUSINESS; (Means and includes any of the following)**:**

760.2.27.1. The sale, lease or sublease of the business;

760.2.27.2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;

760.2.27.3. 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.

760.3. LOCATION OF ADULT BUSINESSES; AMORTI-ZATION.

760.3.1. It shall be unlawful to operate or cause to be operated any adult entertainment establishments, also known as sexually oriented businesses in any location in the town except as provided in the Land Development Code of the Town of Limon, Chapter II-Zoning, as amended.

760.3.2. It shall be unlawful to operate or cause to be operated an adult entertainment establishments, also known as sexually oriented businesses within one thousand feet (1000') of:

760.3.2.1. A church;

760.3.2.2. A school or childcare facility;

760.3.2.3. A public park (not including trails);

760.3.3. It shall be unlawful to cause or permit the operation of an adult business within one thousand feet (1,000') of another adult entertainment establishment, also known as sexually oriented business . The distance between any such businesses and those businesses specified in section **760.3.2.** shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the adult business is located.

760.3.4. It shall be unlawful to cause or permit the operation or maintenance of more than one adult business in the same building, structure or portion thereof.

760.3.5. Any adult business lawfully operating on the effective date of this chapter that is in violation of sections **760.3.2.** through **760.3.4.**will be permitted to continue for a period six (6) months from the effective date hereof. However, the zoning administrator may grant an extension of time during which an adult business in violation of sections **760.3.2.** through **760.3.4.** will be permitted to continue upon a showing that the owner of the business has not had a reasonable time to recover the initial financial investment in the business. No such extension of time shall be for a period greater than that reasonably necessary for the owner of the business to recover his/her initial financial investment in the business. An adult business in violation of subsections **760.3.2.** through **760.3.4.** may continue during such extended period, unless the business is sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such business shall not be enlarged, extended or altered except that the business may be brought into compliance with this chapter. If two (2) or more adult businesses are within one thousand feet (1,000') of one another and otherwise in a permissible location, the adult business which was first established and continually operating at the particular location will be deemed to be in compliance with sections **760.3.2.** through **760.3.4.** , and the later established business(es) will be deemed to be in violation of sections **760.3.2.** through **760.3.4.** of this section.

760.3.6. An adult business lawfully operating is not rendered a nonconforming use by the subsequent location of a church, school, childcare facility, public park, residential district, or a residential lot within five hundred feet (500') of the adult business; however, if the adult business ceases operation for a period of one hundred eighty (180) days or more regardless of any intent to resume operation, it may not recommence operation in that location.

760.4. LICENSE REQUIRED; FEE:

760.4.1. No person shall conduct an adult business without first having obtained an annual adult business license.

760.4.2. Applicants for an annual adult business license shall pay a license fee of fifty dollars ($50.00).

760.4.3. In the event an application for an adult business license is withdrawn or denied, the license fee shall not be refunded to the applicant.

760.5. LICENSE APPLICATION:

760.5.1. All applicants for an adult business license shall file an application for such license with the Town Clerk on forms to be provided by the Clerk. Each principal owner and all managers and employees shall be named in the application form.

760.5.2. The completed application shall contain the following information and shall be accompanied by the following documents:

760.5.2.1. If the applicant is:

760.5.2.1.1. An individual, the individual shall state his or her legal name and any aliases and shall submit satisfactory proof that he or she is eighteen (18) years of age;

760.5.2.1.2. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

760.5.2.1.3. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the statutes of the state, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the state, the names and capacity of all officers, directors and principal owners, and the name of the registered corporate agent and the address of the registered office for service of process;

760.5.2.1.4. A limited liability company shall state its complete name, the date of filing of the articles of organization and operating agreement, the names of all managers and members.

760.5.2.2. Whether the applicant or any other individual listed under section **760.5.1.** had worked under or has had a previous adult business license under this chapter or other adult business or adult entertainment ordinance from another state, city or county denied, suspended or revoked, including the name and location of the adult business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.

760.5.2.3. Whether the applicant or any other individual listed under section **760.5.1.** holds any other licenses under this chapter or other similar adult business ordinance from another municipality,

county or state and, if so, the names and locations of such other permitted business.

760.5.2.4. The location of the proposed adult business, including a legal description of the property, street address and telephone number(s), if any.

760.5.2.5. Proof of the applicant's right to possession of the premises wherein the adult business is proposed to be conducted.

760.5.2.6. The applicant's, or any other individual's listed, pursuant to section **760.5.1.**, mailing address and residential address.

760.5.2.7. A photocopy of the driver's license or other government issued identification card for the individuals listed in section **760.5.1.**

760.5.2.8. A floor plan of the proposed licensed premises which specifies the location and dimensions of any manager's station and demonstrates that there is an unobstructed view from at least one of the manager's stations of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. The proposed floor plan shall designate those rooms or other areas of the premises where patrons are not permitted and shall also designate the use of each room or other area of the premises. The proposed floor plan need not be professionally prepared but must 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 (±6"). The diagram shall designate the place where the license will be conspicuously posted and the location of any proposed stage. A floor plan is not required of the licensed premises of an adult motion picture theater.

760.5.2.9. A current certificate drawing prepared, within thirty (30) days prior to the application, by a land surveyor depicting the property lines and the structures containing any adult business or massage parlor within one thousand feet (1,000') of the closest exterior wall of the structure in which the applicant's business is proposed to be located and depicting the property line of any church, school, childcare facility, public park, residential zone district or residential lot within five hundred feet (500') from the closest exterior wall of the structure in which the applicant's business is proposed to be located.

760.5.2.10. Whether the applicant or any of the other individuals listed pursuant to section **760.5.2.1.** have been convicted of a specified criminal act within the times set forth in section **760.8.**and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

760.5.2.11. Photographs (passport size or approximately 2 inches by 2 inches) and fingerprints of all principal owners and each manager, general partner and in the case of a corporate applicant, the president of the corporation.

760.5.3. If the applicant is an individual, he/she must sign the application for a license. If the applicant is a corporation it must be signed by the president or vice president and attested to by the secretary or assistant secretary. If the applicant is a general or limited partnership it must be signed by a general partner. If the applicant is a limited liability company it must be signed by the manager.

760.5.4. If an omission or error is discovered by the Town clerk, the application will be returned to the applicant for completion or correction without further action by the town clerk. Any application rejected due to an omission or error shall be refiled only when the omission or error has been remedied. For the purposes of this chapter, the date the town clerk accepts an application which is complete shall be the date the application is filed with the Town clerk.

760.5.5. In the event that the Town clerk determines that the applicant has improperly completed the application, he/she shall promptly notify the applicant of such fact and allow the applicant thirty (30) days to properly complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

760.5.6. Applicants for a license under this chapter shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the town clerk, shall be grounds for the suspension or revocation of an adult business license.

760.6. APPLICATION FEE:

Each applicant for a new license or as specified in Section **760.12.1.**, whether an individual, partnership

or corporation, shall pay an application fee of one hundred fifty dollars ($150.00) at the time of the filing of an application. Such application fee shall be nonrefundable.

760.7. INVESTIGATION:

On receipt of a properly completed application and the payment of the application and license fees, the Town clerk shall investigate the background of each individual applicant, employee, the partners of a partnership, or the officers, directors and holders of the stock of a corporation. Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the Colorado department of public safety for each person who will be investigated. The investigation conducted by the clerk shall be sufficient to verify the accuracy of all the information required by section **760.5.** The clerk shall also transmit a request to the Town's zoning official for a report that the proposed location of such adult business complies with the locational requirements of this chapter. The zoning official shall issue such report within five (5) business days of transmission of the request. If the zoning official fails to issue the report as required, the Town clerk shall presume that the proposed location of the adult business complies with this chapter.

760.8. APPROVAL/DENIAL OF LICENSE:

760.8.1. The application of any applicant shall be approved or denied by the Town clerk within fourteen (14) days of the date the application is filed with the Town clerk. The Town clerk shall deny a license if:

760.8.1.1. The applicant is under the age of eighteen (18) years;

760.8.1.2. The applicant has made a false statement upon the application or has given false information in connection with an application;

760.8.1.3. The applicant or any holder of any class of stock, or a director, officer, partner or principal of the applicant has had an adult business license revoked or suspended anywhere within the state within one year prior to the application;

760.8.1.4. The applicant has operated an adult business which has determined to be a public nuisance under state law or this code within one year prior to the application;

760.8.1.5. A corporate applicant is not in good standing or authorized to do business in the state; or

760.8.1.6. The applicant is overdue in the payment to the Town of taxes, fees, fines or penalties assessed against him/her or imposed against him/her in relation to an adult business;

760.8.1.7. The applicant has not obtained the required sales tax license;

760.8.1.8. The applicant has been convicted of a specified criminal act within the five (5) year period prior to the date the application is filed with the Town clerk.

760.8.2. In the event that the Town clerk denies a license, he/she shall make written findings of fact stating the reasons for the denial, and a copy of such decision shall be sent by first class mail to the address shown in the application. An applicant shall have the right to a hearing before the Municipal Judge as set forth in section **760.11.3.** A written request for such hearing shall be made to the Municipal Judge within ten (10) days of the date of the denial of the license by the Town clerk. This hearing shall be held within fourteen (14) days from the date a timely request for hearing is received by the Municipal Judge and shall follow all the relevant procedures set forth for a suspension or revocation of a license contained in Section **760.11.3.**

760.8.2.1. At the hearing referred to above, the Municipal Judge shall hear such statements and consider such evidence as the police department or other enforcement officers, the applicant or other party in interest, or any other witness shall offer which is relevant to the denial of the license application by the Town clerk.

760.8.2.2. If the Municipal Judge determines that the applicant is ineligible for a license per section **760.8.1.**, he/she shall issue an order sustaining the Town clerk's denial of the application, within two (2) days after the hearing is concluded, based on findings of fact. A copy of the order shall be mailed to the applicant at the address supplied on the application.

760.8.2.3. The order of the Municipal Judge made pursuant to section **760.8.2.2.** shall be a final decision and may be appealed to the district court pursuant to Colorado rules of civil procedure 106(a)(4). Failure of an applicant to timely follow the limits specified above constitutes a waiver by him/her

of any right he/she may otherwise have to contest the denial of his/her license application.

760.8.3. If any Town official or department fails to render a timely decision pursuant to the terms of this section then said official or department shall be deemed to have approved or consented to the issuance of the requested license.

760.9. TERM OF LICENSE:

All licenses granted pursuant to this chapter shall be for a term of one year. Said term shall commence on January 1 of each year and terminate upon December 31 of the same year. Applications for a license filed at any other time during the year shall be treated the same as if they were filed January 1 of that year and shall terminate on December 31 of that same year, and no proration shall be permitted.

760.10. LICENSE RENEWAL:

Renewal of an existing license granted pursuant to this chapter may be had by payment of the annual licensing fee and filing of a renewal application with the Town clerk not less than forty five (45) days prior to the date of expiration. The Town clerk may waive, for good cause shown, this filing time requirement.

760.11. SUSPENSION OR REVOCATION OF LICENSE:

760.11.1. The Municipal Judge may suspend a license for a period not to exceed six (6) months or revoke any license granted pursuant to this chapter upon a finding of any of the following facts:

760.11.1.1. Repeated disturbances of the public peace have occurred within the licensed establishment or upon any parking areas, sidewalks, access ways or grounds within the neighborhood of the licensed establishment involving patrons, employees or the licensee;

760.11.1.2. The licensee or any employees thereof have offered for sale or knowingly allowed to be consumed or possessed upon the licensed premises, or upon any parking areas, sidewalks, walkways, accessways or grounds immediately adjacent to the licensed premises, narcotics, dangerous drugs or fermented malt, malt, vinous or spirituous beverages;

760.11.1.3. The licensee or manager is not upon the licensed premises at all times that adult entertainment is being provided;

760.11.1.4. Adult entertainment was offered at the licensed establishment during hours prohibited by section **760.14.**;

760.11.1.5. The licensee, manager or employee has allowed or has done nothing to prevent patrons from engaging in public displays of indecency in violation of state law or has allowed patrons or employees to engage in acts of prostitution or negotiations for acts of prostitution within the licensed establishment or upon any parking areas, sidewalks, accessways or grounds immediately adjacent to the licensed establishment, when the licensee, manager or employee knew or should have known such displays or acts were taking place;

760.11.1.6. The licensee or manager made a false statement or gave false information in connection with an application for a license or a renewal of a license;

760.11.1.7. The licensee, manager, or employee violated or permitted a violation of any provisions of this section **760** including the standards of conduct set forth in section **760.15.**;

760.11.1.8. The manager or the employee of the licensed establishment is under the age of eighteen (18) years;

760.11.1.9. The licensee, in the case of a corporation, is not in good standing or authorized to do business in the state;

760.11.1.10. The licensee or an employee knowingly operated any aspect or facilities of the adult business during a period of time when the adult business license was suspended;

760.11.1.11. The licensee is delinquent in the payment to the Town or state for any taxes or fees past due;

760.11.1.12. The licensee, manager or employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation, to occur within the licensed premises; or

760.11.1.13. The licensee, manager or employee has been convicted of a specified criminal act.

760.11.2. Nothing in this chapter shall prohibit the Town from taking any other enforcement action provided for by this code, the laws of the state, or of the United States.

760.11.3. A licensee shall be entitled to a hearing before the Municipal Judge if the Town seeks to suspend or revoke his/her license based on a violation of this chapter;

760.11.3.1. When there is probable cause to believe that a licensee has violated or permitted a violation of this chapter to occur in or near the licensed establishment, the police department may file a written complaint with Municipal Judge setting forth the circumstances of the violation.

760.11.3.2. Municipal Judge shall provide a copy of the complaint to the licensee, together with notice to appear before the Municipal Judge for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked.

760.11.3.3. In such cases where specified criminal acts are in issue, the provisions of Colorado Revised Statutes section 24-5-101 shall control.

760.11.3.4. At the hearing referred to above, the Municipal Judge shall hear such statements and consider such evidence as the police department, or other enforcement officers, the owner, occupant, lessee or other party in interest, or any other witness shall offer which is relevant to the violation alleged in the complaint. The Municipal Judge shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the Municipal Judge determines that a violation did occur he/she shall issue an order suspending or revoking the license, within twenty (20) days after the hearing is concluded, based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.

760.11.3.5. The order of the Municipal Judge made pursuant to section **760.11.3.** shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to timely appeal said order constitutes a waiver by him/her of any right he/she may otherwise have to contest the suspension or revocation of his/her license.

760.11.3.6. The Municipal Judge shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing which the Municipal Judge conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Municipal Judge. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State. Upon failure of any witness to comply with such subpoena, the Town Attorney shall:

760.11.3.6.1. Petition any Judge of the Municipal Court of the Town, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the Court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of wilful failure to comply with such order of Court; or

760.11.3.6.2. Petition the appropriate District Court setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the Court, after hearing evidence in support of or contrary to the petition, enter its order as in other civil actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of wilful failure to comply with such order of Court.

760.11.4. In the event of suspension, revocation, or cessation of business, no portion of the license fee, application fee or investigative fee shall be refunded.

760.11.5. When the Municipal Judge revokes a license, the revocation shall continue for one year, and the licensee shall not be issued an adult business license for one year from the date the revocation became effective.

760.12. DISPLAY; TRANSFERABILITY; CHANGE OF OWNERSHIP:

760.12.1. Any adult business license issued pursuant to the terms of this section **760** shall be

prominently displayed at all times upon the premises for which the license was issued in accordance with section **760.5.2.8.**

760.12.2. Licenses issued under this Chapter shall not be transferable except as provided herein. Any transfer of ownership or control by a licensee holding an adult business license shall result in termination of the license unless such licensee within thirty (30) days prior to any such transfer files a written notice of such transfer accompanied by the application fee and an investigation fee as required by Sections **760.6.** and **760.7.** Any such transfer shall be reported on forms provided by the Town Clerk and shall require the names of all new principal owners and any information as required by Section **760.5.** Approval or denial by the Town Clerk of such transfer shall be upon the same terms as provided for in this Chapter for the approval or denial of an adult business license.

760.12.3. When a license has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license.

760.12.4. Each license issued under this Chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he holds. A separate license shall be issued for each specific adult business and each geographical location.

13. MANAGER; CHANGE OF MANAGER:

760.13.1. A registered manager shall be on the premises of an adult business at all times that adult entertainment is being provided. It shall be unlawful for any person to work as a manager of an adult business without first registering with the Town Clerk. The registration form shall require the applicant to provide his/her legal name and any aliases, home address, telephone number and satisfactory proof that he is twenty one (21) years of age.

760.13.2. In the event a licensee changes the manager or any employees of an adult business, the licensee shall report such change and register the new manager or any employees on forms provided by the Town Clerk within ten (10) days of such change. Any new employee or manager shall pay the investigation fee specified in Section **760.7.** and shall be subject to approval or denial in accordance with the provisions of Section **760.8.**

760.14. HOURS OF OPERATION:

It shall be unlawful for a sexually oriented business to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises from twelve o'clock (12:00) midnight until eight o'clock (8:00) A.M.

760.15. STANDARDS OF CONDUCT:

760.15.1. The following standards of conduct must be adhered to by employees of any adult business which offers, conducts or maintains live adult entertainment:

760.15.1.1. Clothing: No employee or entertainer mingling with the patrons or serving food or beverages shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical area.

760.15.1.2. Touching, Caressing, Fondling: No employee or entertainer shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

760.15.1.3. Simulation Of Specified Areas: No employee or entertainer shall wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

760.15.1.4. Performance Standards:

760.15.1.4.1. No employee or entertainer shall be unclothed or in such attire, costume or clothing so as to expose any portion of the specified anatomical area except upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest patron or behind a solid, uninterrupted physical barrier which completely separates the entertainer from any patrons. This barrier must be a minimum of one-fourth inch (1/4") thick and have no openings between the entertainer and any patrons. The stage shall be fixed and immovable.

760.15.1.4.2. No employee or entertainer shall perform while nude or seminude any obscene acts or obscene acts which simulate specified sexual activities.

760.15.1.5. Use Of Inanimate Objects: No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this Section.

760.15.1.6. Menu: There shall be posted and conspicuously displayed in every area offering adult entertainment a list of food and beverage prices.

760.15.1.7. Alcohol And Liquor: No adult entertainment use shall be located within any premises which is licensed for the retail sale of three and two-tenths percent (3.2%) beer, malt, vinous or spirituous liquor, as such terms are defined in title 12, articles 46 and 47 Colorado Revised Statutes.

760.15.1.8. Consumption Of Alcohol: It shall be unlawful to permit the consumption of three and two-tenths percent (3.2%) beer or other alcoholic beverages within the same premises as an adult entertainment use.

760.15.1.9. Tips: Any tips for entertainers shall be placed by a patron into a tip box which is permanently affixed in the adult business and no tip may be handed directly to an entertainer. A licensee that desires to provide for such tips from its patrons shall establish one or more containers to receive tips. Any physical contact between a patron and an entertainer is strictly prohibited.

760.15.1.10. Tip Boxes: An adult business that provides tip boxes shall conspicuously display in the common area of the premises one or more signs in letters at least one inch (1") high to read as follows:

ADULT ENTERTAINMENT IS REGULATED BY THE TOWN OF LIMON

Any tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and the entertainer is prohibited by law. Violators face maximum penalties of $1,000 and/or one year in jail.

760.15.1.11. Outside Visibility: No adult entertainment occurring on the premises shall be visible at any time from outside of the premises.

760.15.2. Any licensee who offers, conducts, or maintains live adult entertainment or an adult arcade which exhibits in a peep booth, a film, videocassette or other video reproduction, shall comply with the following requirements in addition to those set forth in section **760.15.2.1.**:

760.15.2.1. It is the duty of the licensee of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

760.15.2.2. It is the duty of the licensee and manager of the premises to ensure that any doors to public areas on the premises remain unlocked during business hours.

760.15.2.3. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment or other forms of adult entertainment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the manager's, stations. The view required in this subsection must be by direct line of sight from the manager's station. A manager's station may not exceed thirty two (32) square feet of floor area.

760.15.2.4. No alteration to the configuration or location of an adult business may be made without the prior written approval of the zoning official.

760.15.2.5. It shall be the duty of the licensee, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in section **760.2.3.** remains unobstructed by any doors, curtains, drapes, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the license application filed pursuant to this chapter.

760.15.2.6. No peep booth may be occupied by more than one person at any one time.

760.15.2.7. Peep booths must be separated from other peep booths by a solid, uninterrupted physical divider which is a minimum of one-fourth inch (1/4") thick and serves to prevent physical contact between patrons.

760.16. AGE RESTRICTIONS:

Admission to adult businesses is restricted to persons of the age of eighteen (18) years or more.

760.17. LIGHTING REQUIREMENTS:

760.17.1. All off street parking areas and premises entries of adult businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on all parking surfaces and/or walkways. This required lighting level is to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.

760.17.2. The premises of all adult businesses, except adult motion picture theaters, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than two (2) foot-candles of light as measured at the floor level.

760.17.3. Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than one foot-candle of light as measured at the floor level.

760.18. RIGHT OF ENTRY:

The application for an adult business license shall constitute consent of the licensee and his/her agents or employees to permit the Town's police department or any other agent of the Town to conduct routine inspections of any licensed adult business during the hours the establishment is conducting business.

760.19. EXEMPTIONS, GENERALLY:

760.19.1. It is an affirmative defense to prosecution under this chapter if a person appearing in a state of nudity or seminude did so in a modeling class operated:

760.19.1.1. By a proprietary school, licensed by the state; a college, junior college or university supported entirely or partly by taxation;

760.19.1.2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or

760.19.1.3. In a structure:

760.19.1.3.1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

760.19.1.3.2. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

760.19.1.3.3. Where no more than one nude model is on the premises at any one time.