



TOWN OF PAONIA
214 GRAND AVENUE
TUESDAY, AUGUST 20, 2024
SPECIAL TOWN BOARD MEETING AGENDA 6:00 PM
[HTTPS://US02WEB.ZOOM.US/J/89482898450](https://us02web.zoom.us/j/89482898450)
MEETING ID: 894 8289 8450

Roll Call

Approval of Agenda

Actions & Presentations

Executive Session for a conference with the Water Attorney, Sherry Coloia for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) regarding the Town's Code Revision and water regulations.

Discussion and Guidance for the Code Rewrite with Leslie Klusmire, Sustainable Solutions – **Public Comment will not be taken on this item since there are later meetings set aside to collect public comment on the Code Rewrite**

[Update](#) on Comprehensive (Master) Plan and Timeline

Adjournment

I. RULES OF PROCEDURE

Section 1. Schedule of Meetings. Regular Board of Trustees meetings shall be held on the second and fourth Tuesdays of each month, except on legal holidays, or as re-scheduled or amended and posted on the agenda prior to the scheduled meeting.

Section 2. Officiating Officer. The meetings of the Board of Trustees shall be conducted by the Mayor or, in the Mayor's absence, the Mayor Pro-Tem. The Town Clerk or a designee of the Board shall record the minutes of the meetings.

Section 3. Time of Meetings. Regular meetings of the Board of Trustees shall begin at 6:30 p.m. or as scheduled and posted on the agenda. Board Members shall be called to order by the Mayor. The meetings shall open with the presiding officer leading the Board in the Pledge of Allegiance. The Town Clerk shall then proceed to call the roll, note the absences and announce whether a quorum is present. Regular Meetings are scheduled for three hours, and shall be adjourned at 9:30 p.m., unless a majority of the Board votes in the affirmative to extend the meeting, by a specific amount of time.

Section 4. Schedule of Business. If a quorum is present, the Board of Trustees shall proceed with the business before it, which shall be conducted in the following manner. Note that all provided times are estimated:

- (a) Roll Call - (5 minutes)
- (b) Approval of Agenda - (5 minutes)
- (c) Announcements (5 minutes)
- (d) Recognition of Visitors and Guests (10 minutes)
- (e) Consent Agenda including Approval of Prior Meeting Minutes (10 minutes)
- (f) Mayor's Report (10 minutes)
- (g) Staff Reports: (15 minutes)
 - (1) Town Administrator's Report
 - (2) Public Works Reports
 - (3) Police Report
 - (4) Treasurer Report
- (h) Unfinished Business (45 minutes)
- (i) New Business (45 minutes)
- (j) Disbursements (15 minutes)
- (k) Committee Reports (15 minutes)
- (l) Adjournment

* This schedule of business is subject to change and amendment.

Section 5. Priority and Order of Business. Questions relative to the priority of business and order shall be decided by the Mayor without debate, subject in all cases to an appeal to the Board of Trustees.

Section 6. Conduct of Board Members. Town Board Members shall treat other Board Members and the public in a civil and polite manner and shall comply with the Standards of Conduct for Elected Officials of the Town. Board Members shall address Town Staff and the Mayor by his/her title, other Board Members by the title of Trustee or the appropriate honorific (i.e.: Mr., Mrs. or Ms.), and members of the public by the appropriate honorific. Subject to the Mayor's discretion, Board Members shall be limited to speaking two times when debating an item on the agenda. Making a motion, asking a question or making a suggestion are not counted as speaking in a debate.

Section 7. Presentations to the Board. Items on the agenda presented by individuals, businesses or other organizations shall be given up to 5 minutes to make a presentation. On certain issues, presenters may be given more time, as determined by the Mayor and Town Staff. After the presentation, Trustees shall be given the opportunity to ask questions.

Section 8. Public Comment. After discussion of an agenda item by the Board of Trustees has concluded, the Mayor shall open the floor for comment from members of the public, who shall be allowed the opportunity to comment or ask questions on the agenda item. Each member of the public wishing to address the Town Board shall be recognized by the presiding officer before speaking. Members of the public shall speak from the podium, stating their name, the address of their residence and any group they are representing prior to making comment or asking a question. Comments shall be directed to the Mayor or presiding officer, not to an individual Trustee or Town employee. Comments or questions should be confined to the agenda item or issue(s) under discussion. The speaker should offer factual information and refrain from obscene language and personal attacks.

Section 9. Unacceptable Behavior. Disruptive behavior shall result in expulsion from the meeting.

Section 10. Posting of Rules of Procedure for Paonia Board of Trustees Meetings. These rules of procedure shall be provided in the Town Hall meeting room for each Board of Trustees meeting so that all attendees know how the meeting will be conducted.

II. CONSENT AGENDA

Section 1. Use of Consent Agenda. The Mayor, working with Town Staff, shall place items on the Consent Agenda. By using a Consent Agenda, the Board has consented to the consideration of certain items as a group under one motion. Should a Consent Agenda be used at a meeting, an appropriate amount of discussion time will be allowed to review any item upon request.

Section 2. General Guidelines. Items for consent are those which usually do not require discussion or explanation prior to action by the Board, are non-controversial and/or similar in content, or are those items which have already been discussed or explained and do not require further discussion or explanation. Such agenda items may include ministerial tasks such as, but not limited to, approval of previous meeting minutes, approval of staff reports, addressing routine correspondence, approval of liquor licenses renewals and approval or extension of other Town licenses. Minor changes in the minutes such as non-material Scribner errors may be made without removing the minutes from the Consent Agenda. Should any Trustee feel there is a material error in the minutes, they should request the minutes be removed from the Consent Agenda for Board discussion.

Section 3. Removal of Item from Consent Agenda. One or more items may be removed from the Consent Agenda by a timely request of any Trustee. A request is timely if made prior to the vote on the Consent Agenda. The request does not require a second or a vote by the Board. An item removed from the Consent Agenda will then be discussed and acted on separately either immediately following the consideration of the Consent Agenda or placed later on the agenda, at the discretion of the Board.

III. EXECUTIVE SESSION

Section 1. An executive session may only be called at a regular or special Board meeting where official action may be taken by the Board, not at a work session of the Board. To convene an executive session, the Board shall announce to the public in the open meeting the topic to be discussed in the executive session, including specific citation to the statute authorizing the Board to meet in an executive session and identifying the particular matter to be discussed “in as much detail as possible without compromising the purpose for which the executive session is authorized.” In the event the Board plans to discuss more than one of the authorized topics in the executive session, each should be announced, cited and described. Following the announcement of the intent to convene an executive session, a motion must then be made and seconded. In order to go into executive session, there must be the affirmative vote of two thirds (2/3) of Members of the Board.

Section 2. During executive session, minutes or notes of the deliberations should not be taken. Since meeting minutes are subject to inspection under the Colorado Open Records Act, the keeping of minutes would defeat the private nature of executive session. In addition, the deliberations carried out during executive session should not be discussed outside of that session or with individuals not participating in the session. The contents of an executive session are to remain confidential unless a majority of the Trustees vote to disclose the contents of the executive session.

Section 3. Once the deliberations have taken place in executive session, the Board should reconvene in regular session to take any formal action decided upon during the executive session. If you have questions regarding the wording of the motion or whether any other information should be disclosed on the record, it is essential for you to consult with the Town Attorney on these matters.

IV. SUBJECT TO AMENDMENT

Section 1. Deviations. The Board may deviate from the procedures set forth in this Resolution, if, in its sole discretion, such deviation is necessary under the circumstances.

Section 2. Amendment. The Board may amend these Rules of Procedures Policy from time to time.

To: Mayor Paige Smith and Board of Trustees
From: Leslie Klusmire, Sustainable Futures LLC
RE: Request for policy direction regarding Municipal Code rewrite
Date: August 20, 2024

This memo both updates the Board on the progress of the municipal code rewrite and is a request for guidance on some policy issues.

I am finalizing a draft of the Paonia Municipal Code for staff and the Town Attorney to review. I'm waiting for some outstanding pieces other people are working on.

- a. Before I can complete Chapter 16 regarding land use regulations, the Comprehensive Plan has to be approved so I can write those regulations to match the Plan.
- b. The Police Chief is working with the Town Attorney to rewrite Chapter 13, General Offences, and Chapter 12, Model Traffic Code.
- c. The Town Clerk is asking other clerks to provide updated Alcohol and Marijuana licensing code language. These sections are out of date.

For this meeting, I'm asking the Board to determine what direction you want for some issues that need to be addressed. I want to assure the public that the direction you give me tonight will not necessarily be the final approved code language. There are more steps, including sessions for community and Planning Commission input.

When will the final code be done?: As you know, I was skeptical that the final code could be completed in six months. Usually, rewrites of codes take a year. While I think we can finish this before a year, I don't think it will be done at the end of September for this reason:

While a code can be written in that time, code revisions are not just about the consultant finishing writing a code. The code belongs to the Town, not the consultant. That means it's a team effort involving checking with staff, the Planning Commission, and the Board and seeking citizen input. Even without the difficulty of the last few months, setting up meetings, allowing time for discernment by all involved, and other necessary steps don't happen as quickly as a six-month time limit allows. Rushing this process will cause problems, and it is not advised, especially in a town where you have a tradition of very detailed critiques from some members of the public.

That being said, here are some initial issues for your direction tonight. I have also included some FYIs in this list as a forewarning of what you will see in the final draft. I don't need direction regarding the FYIs.

- 1. **Council/Manager form of government:** I understand you want the code to clearly delineate a Council/Manager form of government. Currently, the code includes contradictory language about who has what roles. I have met with the town attorney, and he recommends that form, resulting in decreased liability and more effective government. Please confirm that direction.

- 2. **FYI: Removing Code Language that is not subject to ordinance:** The code includes language that should not be in a code. A resolution deals with matters of a special or temporary character, and an ordinance prescribes some permanent rule of conduct or government to continue in force until the ordinance is repealed. Examples include publishing fees and rates as Ordinances when they should be set from time to time via resolution and publishing contracts such as those in Chapter XX regarding Franchises. I am removing language that does not need to be in the code. While this section will remain to cover any past ordinance approvals, I publish it here to show what kinds of things are laws and what needs to be a resolution.

Sec. 1170. Ordinances saved from repeal.

The continuance in effect of temporary and/or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom, and the adoption of this Code shall not repeal or amend any such ordinance or part of any such ordinance. Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

- 1 *Creating, opening, dedicating, naming, renaming, vacating or closing specific streets, alleys and other public ways.* OK

- 2 *Establishing the grades or lines of specific streets, sidewalks and other public ways.* Not subject to ordinance

- 3 *Creating specific sewer and paving districts and other local improvement districts.* OK

- 4 *Authorizing the issuance of general obligation or specific local improvement district bonds.* OK

- 5 *Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.* OK

- 6 *Annexing territory to or excluding territory from the Town.* OK

- 7 *Dedicating or accepting any specific plat or subdivision.* OK

- 8 *Calling or providing for a specific election.* OK

- 9 *Authorizing specific contracts for purchase of beneficial use of water by the Town.* Not subject to ordinance

- 10 *Approving or authorizing specific contracts with the State, with other governmental bodies or with others.* Not subject to ordinance

<i>11 Authorizing a specific lease, sale or purchase of property.</i>	<i>Only sale subject to ordinance (not lease or purchase)</i>
<i>12 Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.</i>	<i>Not subject to ordinance</i>
<i>13 Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.</i>	<i>Not subject to ordinance</i>
<i>14 Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.</i>	<i>Not subject to ordinance</i>
<i>15 Appropriating money.</i>	<i>OK</i>
<i>16 Levying a temporary tax or fixing a temporary tax rate.</i>	<i>Remove - violates TABOR</i>
<i>17 Relating to salaries.</i>	<i>Not subject to ordinance</i>
<i>18 Amending the Official Zoning Map. (Ord. No. 201404, § 1, 1132015)</i>	<i>OK</i>

3. FYI – Consolidating definitions in a new Chapter 3: The code includes numerous definitions sprinkled throughout. Where the definitions apply to more than one code section, I am including those in a new Chapter 3 - Definitions. Where they only apply to that section, I’ve left them in. A few definition issues:

- a. Variance:** The definition of variance has been set by case law throughout the US. This code calls things variances that don’t meet the criteria for a variance. Instead, I am calling them waivers so they won’t be confused with the legal definition of a variance.
- b. Moratorium:** In Colorado, the criteria for a moratorium was established by case law and is a function of the powers to pass local government ordinances. In Paonia’s case, a moratorium was established by initiative to restrict sales of new taps pending improvements to the water system. At this point, that moratorium is more of a hold on tap purchases until the criteria established by the initiative are met and there is assurance of adequate supply. Placing this hold does not necessarily fall under the local government’s authority to adopt a moratorium as established by case law. Because of this, we are including a definition of moratorium that conforms with Colorado case law and a separate definition for the current water ‘moratorium.’ You may want to consider a different name than moratorium for the hold on new tap sales as might be recommended by the Town Attorney.

- c. **Garbage:** The word “garbage” is defined differently in the sewer regulations than in the regulations addressing Sanitation. I am changing the word garbage in the sewer regulations to “food waste,” which appears to be the intent of using that word.
4. **FYI: Lack of Clarity about who is “authorized” and references to non-existent positions as the person authorized to make decisions:** We are tightening up the code to ensure that authority is clearly defined, officially granted, and removing reference to non-existent positions.
5. **FYI -Conformance to state and federal law:** Some regulations are out of date or don’t comply with state and federal law where those laws prevail. We are revising those sections to comply with current laws.
6. **FYI—Consolidating numerous references to “right of entry” and ability to “lien” to collect past-due assessments: The Town Attorney is developing code language for the right of entry and ability to lien,** and we will include that in Article 1. Numerous references in other sections will be deleted and replaced with language referring to Article 1.
7. **FYI—General Administration changes:** The appointed authorities and other administrative rules are being updated to reflect the town's current policy.
8. **Fold duties of the Board of Adjustment into the Planning Commission:** After discussing this issue with the Town Attorney, I recommend folding the Board of Adjustment into the Planning Commission. Many small towns have done this to avoid having to appoint separate members for both bodies. We are not recommending folding the Board of Adjustment into the Board of Trustees (which is an option for you) because the Board of Trustees should act as the appeal body for those actions. If the BOA were folded into the Board, appeals would have to go to the courts, resulting in extra expense. Please confirm or direct a preferred option.
9. **FYI – Reorganizing code sequencing:** In many cases, code sections are not organized in a logical sequence. Proper sequencing would look like:
 - a. Criteria establishing the need for a permit.
 - b. Process and criteria for permit application

- c. Process for permit approval or denial, including criteria for approving or denying a permit.
- d. Process for appeal.
- e. Requirements for maintaining a permit.

I am reorganizing sections to flow through the process. In some cases, approval or denial appears to be at the whim of the Board. To insure fairness, I recommend that criteria be established so that permit applications are judged and awarded according to the same criteria for all applicants. I will be recommending criteria for your review.

- 10. The ability to cancel meetings when the Clerk determines there is no business to be considered:** Since there is confusion about when meetings can be canceled, I am changing the language to make clear that when there is no business, a meeting may be canceled. An example is:

*The Commission shall elect its Chair from among its membership and create and fill such other offices as it may determine. The term of each such office, including that of the Chair, shall be for two (2) years. The Commission may hold at least one (1) regular meeting each month. The Clerk may cancel a meeting if there is **no business to consider**. It shall adopt rules for the transaction of business and keep a record of its resolutions, transactions, findings, and determinations, which shall be public.*

- 11. Tree Board:** The Tree Board currently has broad policy direction even to Town staff members. The Tree Board should only recommend policy to the Board of Trustees, and the Board directs staff based on their decision to accept the recommendation or not. The liability and conformance to state statute issues that arise are similar to the committee authority discussion we had when I was interim administrator. This does not preclude the staff's ability to consult the Tree Board for their advice, but they should not have authority to direct anyone regarding Town decisions. I have revised authority so that the Tree Board directly responds to the Board of Trustees. I strongly recommend that you confirm this change due to the liability and statute adherence issues.
- 12. Committee authority policy/rules:** During the tenure of the former Town Attorney and me, we encouraged the Board to adopt clear authority regulations for the Board-appointed committees. I strongly recommend you adopt those. I have attached the staff report and proposed ordinance for your confirmation. Some of the report comments may no longer be relevant, but they will give you an idea of our concerns.
- 13. Board of Trustees ethics and conduct:** To clarify the ethical and behavioral obligations of the Board members, I recommend codifying those standards as follows. Paonia has a well-known history of uncooperative and uncivil behavior by both elected officials and

meeting attendees, resulting in a difficult environment to work in and exposing the Town to legal challenges. Please confirm or direct another option:

The Board will govern lawfully observing applicable Federal, C.R.S. Charter and Code requirements, observing sound governance principles with an emphasis on;

- (a) vision outward toward the citizens of Paonia and its other bases rather than an inward preoccupation on administrative minutia and the Board itself,*
- (b) the encouragement of diversity in viewpoints,*
- (c) strategic leadership rather than administrative detail,*
- (d) clear distinction of Board and Administrator roles,*
- (e) collective rather than individual decisions,*
- (f) the future rather than the past or present, and*
- (g) proactivity rather than reactivity.*

Accordingly, the Board shall:

- 1. Cultivate a sense of group responsibility - the principle that the Board speaks with one voice.*
- 2. Embrace open Trustee debate on issues considering each point of view, but once a vote is taken, accept and support the Board's decision.*
- 3. The Board, not the staff, will be responsible for excellence in governance. The Board will initiate policy, not merely react to staff initiatives. Although the expertise of individual Trustees is valued and may enhance the understanding of the Board as a whole, the Board will not use the expertise of individual Trustees as a substitute for the judgment of the entire Board.*
- 4. Direct, control, and inspire the organization by carefully establishing broad written policies reflecting the Board's values and perspectives. The Board's primary focus will be on intended long-term impacts outside the staff organization, not administrative or programmatic means of attaining those effects. Specifically:*
 - a. The Board's governance process will employ best practices for conceiving, executing, and monitoring its own tasks.*
 - b. The Board's policies that rely on citizen input will be more fully detailed in the Town's Master Plans and any separate strategic plans. These plans define organizational impacts, benefits, outcomes, recipients, beneficiaries, and impacted groups, reflecting their relative worth in cost or priority.*
 - c. Board management, relations, and delegation will focus on best practices to inform how power is delegated and its proper use*

monitored, respecting the Administrator's role, authority, and accountability.

- d. Administrator Performance Standards will include providing directives and constraints on Administrator authority and establishing prudence and ethics standards for performance.*
- 5. The Board will at the beginning of each year prioritize its expectations to inform staff on what their focus will be for the year.*
- 6. The Board will be bound by C.R.S. 24-18-101, et seq, and the codes and policies of the Town of Paonia". Further, the Board will enforce upon itself whatever discipline is needed to govern with excellence.*
- 7. Consider duly filed citizen initiatives, referendums, and petitions.*
- 8. As needed, through ordinance or resolution, establish commissions, boards, and temporary advisory commissions and provide for their powers and duties, wherein such commissions, boards, and temporary advisory committee meetings shall be set by the Town Clerk and open to the public and copies of all records of all meetings shall be kept and placed in the office of the Town Clerk for public inspection.*

The ordinance or resolution creating the board or commission shall provide:

- a. Any required qualifications of board and commission members.*
- b. The terms of office for members.*
- c. The method of appointment.*
- d. For temporary advisory commissions, the ordinance or resolution shall describe:

 - i. The advice to be provided or*
 - ii. The task to be accomplished.**
- 9. As needed, create special improvement districts, general improvement districts, business improvement districts, special taxing districts, urban renewal authorities, housing districts, and other special districts and authorities.*
- 10. By ordinance grant utility franchises or permits to entities such as, but not limited to, those providing water, sewer, cable TV, electrical power, telephone, telegraph, telecommunications, or natural gas.*
- 11. The Board will continuously develop itself by orienting new trustees about the Board's obligations and duties and through periodic board discussions and training on governing process improvement.*
- 12. The Board will not allow any Trustee, officer, individual, sub-board,*

commission, or committee of the Board to hinder or be an excuse for not fulfilling the Board’s collective obligations.

13. The Board will regularly self-monitor and discuss the Board’s governing process and performance.

14. Except for Executive Session Board meetings and decisions, the Board will assure transparency of Board records.

14. Combining the Sales Tax Capital Improvements Funds: The reason for establishing separate funds is unclear and unnecessary. A single “Capital Improvement Fund” is recommended. Specific revenues can be directed toward particular projects within a fund without creating separate funds. Usually, a town has 3 or 4 funds and directs specific revenue streams within those funds. In Colorado statutes:

“(10) "Fund" means a fiscal and accounting entity with a self-balancing set of accounts in which cash and other financial resources, all related liabilities and residual equities or balances, and changes therein are recorded and segregated to carry on specific activities or to attain certain objectives in accordance with special regulations, restrictions, or limitations.”

Please confirm this recommendation or direct otherwise.

15. Establishment of a Sanitation Enterprise Fund and Sanitation as an Enterprise:

For some reason, your code fails to establish trash collection as an enterprise or establish a fund for that enterprise. After discussing this with the Town Attorney, I have inserted language for both since you have been treating trash collection as a separate enterprise. In addition, at the direction of the Town Administrator, I have changed the language in the water and sewer enterprise section to clarify that they are separate enterprises with separate funds. Please confirm this is your intent.

16. Elimination of Sidewalk Fund: There is no need to have a separate sidewalk fund. Those revenues can be incorporated into the Capital Improvement Fund and directed toward sidewalk improvements. As we discussed in 2023, there was a misunderstanding about the role of government funds vs. accounts for different projects or activities, which has been resolved. Please confirm this recommendation.

16. FYI—Chapter 7 Franchises: All franchise contract language has been removed and replaced with general rules and regulations regarding franchises and franchise agreements.

17. FYI – Nuisance Articles: This section was difficult to understand. I have significantly rewritten it to make sense.

18. Weeds: Paonia requires weeds to be “cut to the ground.” This is a requirement that is difficult to meet. If you want to retain that requirement, 8” to 12” is standard. Please direct your preference.

19. Natural landscapes: Paonia’s code shows a strong bias toward lawns. There are nuisance clauses that directly forbid the cultivation of natural landscapes. From what I can see, some residents have used this more eco-friendly method in their yards. Many communities are moving toward not permitting large lawns and encouraging natural landscapes. Lawns are a significant user of water and, as a result, deplete our precious water supply for no good reason. Predominately, rock and gravel yards are not the answer. They bump up the temperature as much as 10 degrees in the communities where they are favored. Regardless, lawns are projected to be outlawed in Colorado within ten years. This would not include public spaces such as parks. I recommend that you incorporate and encourage natural landscaping standards instead. I have attached several natural landscaping recommendations for your review. Please direct your preference.

20. Making the Owner of Record ultimately responsible for water and sewer payments and other regulations involving private property: Paonia’s code often gives responsibility to tenants and other parties who cannot be held accountable for non-payment or other code violations. The only party that should be ultimately responsible for property violation issues (for example, tampering with water and sewer lines, failure to maintain the property, and non-payment of assessments) is the owner of record. It is the property owner’s responsibility to ensure compliance with Town ordinances and payments for utilities. I discussed this with the Town Attorney and Administrator and we recommend eliminating references to other parties than the owner of record for the property in question. Tenants can still have accounts in their name, but failure to pay is the responsibility of the owner of record. Please confirm.

21. Water and Sewer Utility regulations:

- a. FYI- In general, I have entirely rewritten these sections. The Utilities code needed it.
- b. FYI - While I edited them, I left the Watershed and Cross-connection articles mostly untouched.
- c. Also, in this code and some other code sections, I recommend you fully recover costs for repairs necessitated by the failure to repair, including enforcement costs.

- d. I also recommend you remove the ability for people to get a tap with only a deposit. Taps should be paid in full before being granted that right. Cost recovery of unpaid tap fees may be impossible and expensive.
- e. Attached is a proposed draft of the out-of-town water users ordinance to protect the Town. I strongly recommend some version of this. Without it, the Town’s system is vulnerable to contamination.
- f. Of note, I recommend you require water rights dedication with annexation and for larger new developments. While the Town currently has enough water rights, with development, you’ll need to expand your portfolio. I have added a section detailing that requirement.

Please indicate your preferences for the above items in this chapter.

22. Annexation: Paonia’s Chapter 15 Annexation lacked many of the necessary requirements for annexation. I have rewritten this section to reflect what is required by state statute.

23. Chapter 16 Land Use Regulations (currently named Zoning): I have started revising this section but need the approved Comprehensive Plan to complete it. I need your direction on one issue now.

Formula businesses: Your code contains separate land use regulations for “formula” businesses, usually called chains or franchises. The courts have struck down the ability to distinguish such businesses from other businesses multiple times. All businesses of similar nature must be regulated consistently. I assume the intent was to blend such businesses into community character. Other local governments have responded to court rulings by adopting design standards that require all businesses to conform to existing and desired community character, including chains and franchises. I have identified some design standards that would accomplish this in Paonia. Do you want to consider design standards to remedy this portion of the code that you must remove?

24. FYI—Land Use and Building Chapters: These chapters will be cleaned up, and regulations will appear in the appropriate chapters. In the case of the building chapter, referring to the latest adoption of the IBC may significantly reduce its length.

25. Dark Sky Regulations: With the current code language, the Dark Sky compliance encouragement in the code is unenforceable. It should not have been put in an ordinance because it is not a law. When a board wants to encourage a guideline, a

resolution is a better option and your Town Attorney can help you in the future determine what avenue to take.

I understand that you may want to make Dark Sky regulations law and keep it in the code. If the Dark Sky regulations remain as is, I recommend they be taken out of the code. If you want to make them law, I can edit your current regulations into enforceable code language. Please let me know your preference.

25. FYI—Large sections of duplicate language: Several large sections of code duplication exist probably because no one caught it. All duplicated code sections will be removed.

Outcome of tonight’s meeting: I will incorporate your directions in the draft code after tonight. The code will be reviewed by staff and the Town Attorney. When we are satisfied, I would like to schedule a joint meeting with the Board and Planning Commission to review the draft before a community meeting to take public comment. The final approved Code will be based on the Board of Trustees' approval, informed by public input and Planning Commission recommendations as well as recommendations of the staff and Town Attorney. This code is meant to protect the Town of Paonia.

Attachments:

1. Committee report and recommendation
2. Natural landscaping standards
3. Draft ordinance regulating out-of-town water users

To: The Honorable Mayor Mary Bachran and Board of Trustees

From: Leslie Klusmire, Interim Administrator

Date: February 28, 2023

RE: Resolution to Establish Proper Committee Roles and Responsibilities

Recommendation: Adopt this Resolution as a first step to establishing the proper roles of advisory committees in the Town of Paonia.

Background:

This resolution was created as a follow-up to the recent Board training on roles and responsibilities in municipal government.

Overall, this resolution states that advisory committees are just that – they recommend plans and policies to the Board. They are valuable to the Town for this reason alone.

They do not supervise staff and are not involved in any way with the day-to-day operations and management of the Town. They do not represent the Town to anyone. Only the Town Board of Trustees can do that.

They do not get involved with or speak to any complaints made to the Town regarding code violations or other infractions. Only Town staff can be involved in addressing complaints.

The involvement of committees in personnel matters, staff direction and supervision, complaints, and any other matters that are not strictly policy recommendations that go directly to the Board of Trustees for final action exposes the Town to liability. This resolution spells that out so there will be no confusion regarding the roles and responsibilities of committees and reduces the Town’s exposure to liability for actions taken outside of government authority.

Regarding specific committees:

North Fork Airport Advisory Committee:

This committee has been assigned several documented responsibilities that conflict with the IGA and governmental chain of authority. Here is the current list of roles and responsibilities with my comments:

- A. *The Committee shall be the liaison between The Town and The County on airport matters, including information sharing and planning required at*

7V2.

No citizen committee should be a direct liaison between the Board and another governmental entity. The Town Board of Trustees should receive recommendations from the Town’s Airport Advisory Committee and serve as the sole contact between the Town and the County.

- B. *The Committee shall report any budgetary requirements at 7V2 to the Paonia Board of Trustees in a timely basis*

If the Advisory Committee has recommendations regarding capital, operating, and maintenance requirements, they should submit them to the Board of Trustees as an agenda item. The Board of Trustees then should negotiate these improvements with Delta County.

- C. *The Committee shall create a 5- and 10-year master plan for the airport and keep it on file at the Town of Paonia*

If there is a master plan required or desired for the airport, it should be a joint effort with the County and the Town. The authority to create and adopt a master plan lies with the Board of Trustees and the Delta County Board of Commissioners.

- D. *The Committee shall report to the Paonia Town Council in March and September of each year and additionally, as needs arise.*

This is a proper role for the Advisory Board. However, you may want to make it less specific and just say as needed.

- E. *The Committee shall conduct tours of 7V2 with new Paonia Trustees and other interested parties as to the ownership, operation, maintenance, and capital improvements required at 7V2*

It is good for the Board to tour the airport with the Advisory Committee, but it doesn’t need to be part of a documented committee mandate. I think it’s better to focus on the advisory capacity of the committee and leave this kind of detail out.

I sent the current airport agreements to Nick. He replaced more specific language with broader language because the “Town does have some significant rights under the MOU regarding the airport property (e.g., ownership, consent to purchase/sale/lease/capital improvements, etc.). The Town does have some rights (albeit less significant) when it comes to operations, maintenance, and management, i.e., right of the Board to provide input and appoint a member to the County’s advisory board.” I’ve attached the IGA and the previous resolution regarding the Airport Advisory Committee for your information.

The Tree Board:

Most of the Tree Board’s previous responsibilities (listed below with comments) would remain. The only adjustments we recommend are having them solely report to the Board of Trustees and clarifying that they do not “investigate.” They make policy recommendations to the Board. Strikeouts are removed language. Underlines are added language:

- *Advise the BOT about the selection, planting, and care of trees in the Town of Paonia using, when applicable, the “most recent guidelines document” or master plan.*
- *Support and promote healthy horticultural practices for our comate through public education by celebrating Arbor Day every year, by maintaining a website, and through other community events.*
- *Prepare the Tree City USA application and “information required” to maintain the Town’s status with the National Arbor Association. Submit the application to the Town Administrator for formal submission to the National Arbor Association.*
- *The Tree Board, ~~when requested by the Town Administrator,~~ only when requested for formal action by the Town Board, shall consider, ~~investigate,~~ make findings, report, and recommend upon any special matter of questions coming within the scope of its work and expertise.*

Water, Sewer, and Trash Committee (aka Water Advisory Committee)

The Water, Sewer & Trash Committee appears to comprise the same people as the Water Advisory Board. The Water Advisory Board was just removed from the Town code. The language included in this resolution makes it clear that this committee does not provide staff oversight in any form and is not involved with the day-to-day operation and decisions of the Public Works staff.

These were the assignments to the Water Advisory Board. The Water Advisory Board section was just removed from the Code (my comments under each role):

1. *Study and recommend to the BOT amendments to the code addressing the water system, including but not limited to Section 13, Article 1 of the Town Code.*
2. *Study and recommend to the BOT actions based on any written reports, infrastructure analysis, and any engineering studies related to the water system and supply.*
3. *Provide a regularly scheduled forum for any recipient of water to participate in discussions specific to the water system, ~~including but not limited to maintenance, repairs, rates, and management.~~ The strikeout indicates language should not be part of any committee’s role.*

- 4. *To consider, investigate, make findings, report, and recommend on any special matter or question coming with the scope of its work to the Town’s Public Works Department and/or to the Board of Trustees.*

Regarding number four – No committee investigates. If the Board requests the committee to advise it on an issue, the committee will play a valuable role in advising the board as to its recommendation on policy issues. Committees do not advise staff (Town’s Public Works Department). They submit their recommendations directly to the Board.

The current Water, Sewer, and Trash Committee document was assigned these roles (my comments under each role):

Role: *“The purpose of the water, sewer, and trash committee are to assist the Mayor and Town staff with water, sewer, and trash issues. It should be noted that this committee is part of the legislative branch of Town government and therefore does not have the authority to directly manage the Public Works Department. That job is rightly performed by the Mayor, the Town Manager, and the Director of Public Works.”*

Again, Committees do not advise or assist staff (Town’s Public Works Department). They submit their recommendations directly to the Board. The committee is not part of the legislative branch of the Town government, and this language has been removed.

- 1. *Develop water, sewer, and trash policies, drafting them through work sessions with the rest of the Town Board and finally shepherd them into an ordinance.* The committee may recommend policies to the Board. They should not draft them or “shepherd” them into an ordinance. This is the role of the Board and staff.
- 2. *Budget for Town water, sewer, and trash expenses considering needs and resources.* The committee should only be involved in budget recommendations if the Board of Trustees specifically assigned this advisory role. Budget recommendations should come from expert staff because they are most intimately acquainted with operations, management needs, and Town finances. Committees may comment on the staff budget recommendations directly to the Board of Trustees during the budget hearing process.
- 3. *Inspect regular budget reports to ensure the water, sewer, trash expenses, and revenues are on track.* The committee should not be involved in budget management, nor does it “inspect” budget reports in an official capacity. The Board of Trustees is solely responsible for monitoring budgets, expenses, and revenues.
- 4. *Do long-range planning on capital improvements to the water, sewer, and trash systems.* The committee can recommend policies regarding long-term planning. The Board of Trustees is solely responsible for long-range capital improvement planning for the water, sewer, and trash and takes recommendations directly from expert staff. The Board of Trustees considers policy recommendations from

- the Committee and public comments.
5. *Provide quality control for the water, sewer, and trash systems, inspecting facilities as needed.* The staff is solely responsible for quality control and for inspecting its facilities. Committees should have no role or responsibility for quality control and inspection.
 6. *Be a board of review when a citizen has a complaint or suggestion about water policies, billing problems, or infrastructure concerns. The Town Clerk can refer citizens to this committee for resolution. This may require that the committee take the issue before the Town Board for a vote.* The Committee should not be a review board for complaints, water policies, billing problems, or infrastructure concerns. The staff handles billing problems; the other issues are solely the Board of Trustees' responsibility.
 7. *Review contractors who provide public works support to the Town.* The committee should have no authority to review and select contractors or contractor work. That is solely the staff's responsibility according to the Town's purchasing policy. When contractor selection lies with the Board of Trustees due to purchasing policy requirements, only the Board of Trustees reviews and selects contractors.
 8. *Review requests for bids on water, sewer, or trash projects.* The committee should have no authority to review bid documents. That is solely the staff's responsibility according to the Town's purchasing policy. When contractor/bid selection lies with the Board of Trustees due to purchasing policy requirements, only the Board of Trustees reviews and selects contractors.
 9. *Cooperate with water companies using Town water.* The Committee should have no liaison authority with water companies. Working with water companies is solely a staff and Board of Trustees authority.
 10. *Cooperate with the Bone Mesa Domestic Water District regarding shared water resources.* The Committee should have no liaison authority with other agencies or organizations. Working with other agencies is solely a staff and Board of Trustees charge.
 11. *Cooperate with the Forest Service regarding springs and facilities located on their land.* The Committee should have no liaison authority with other agencies or organizations. Working with other agencies is solely a staff and Board of Trustees charge.
 12. *Protect and enhance the water resources of the Town.* This is the responsibility of the staff and the Board of Trustees.
 13. *Meet regularly with the Public Works Director about current water, sewer, and trash issues.* The Public Works Director can meet with the Committee for public education purposes only. Staff does not report to the committee, nor does it respond to committee requests. Committee requests and recommendations can only be made directly to the Board.
 14. *Report a summary of recent water, sewer, or trash activities at each regular Town meeting.* This is the responsibility of the staff, not the committee. The

Board member or chair of this committee can update the Board on issues the committee is discussing, but water, sewer, and trash activity reporting is a staff responsibility.

The Water, Sewer, and Trash Committee does not have a rule regarding how many voting members it has. This provision was in the recently removed Code language. Staff will prepare a resolution updating this committee's roles and responsibilities and include the membership requirements that were in the code for the Water Advisory Committee unless otherwise directed by the Board of Trustees.

Future work regarding Town Committees:

The Town Attorney and I need future direction regarding the purpose and scope of work for the Streets, Public Safety, and Parks Committees. Since those committees don't have documented roles and responsibilities, you'll need to let us know what they are so we can document them. Therefore, this resolution addresses them in this way:

C. Parks Committee. The Town Board shall develop and establish written roles and responsibilities for the Parks Committee consistent with the Town's adopted organizational structure by amendment to this resolution at a future date.

D. Streets Committee. The Town Board shall develop and establish written roles and responsibilities for the Streets Committee consistent with the Town's adopted organizational structure by amendment to this resolution at a future date.

F. Public Safety Committee. The Town Board shall develop and establish written roles and responsibilities for the Public Safety Committee consistent with the Town's adopted organizational structure by amendment to this resolution at a future date.

Amendments to the Municipal Code and individual committee resolutions will need to be made so that language is consistent with this Resolution.

RESOLUTION 04-2023

A RESOLUTION REGARDING ADVISORY AND BOARD LIAISON COMMITTEES OF THE TOWN OF PAONIA, COLORADO

WHEREAS, the citizens of the Town of Paonia (the “Town” or “Paonia”) have a tradition of voluntary service to their community by serving on citizen advisory committees to the Town, including the Tree Board, the North Fork Airport Advisory Committee, and the Advisory Water, Sewer, & Trash Committee, and any other citizen advisory committee established by resolution (each, a “Citizen Advisory Committee”) of the Town Board of Trustees (“Town Board”); and

WHEREAS, Paonia citizens have significant practical knowledge on issues and topics related to sustaining the quality of life in the Town and on the operational effectiveness of the Town government; and

WHEREAS, the Town Board has also employed two Board members to serve on Board liaison committees as factfinders and advisors to the Town Board as a whole, including the Personnel Committee, Streets Committee, Public Safety Committee, Parks Committee, and Finance Committee (each, a “Board Committee”), none of which Board Committees have citizen membership; and

WHEREAS, the Town Board has an interest in promoting continued community participation through Citizen Advisory Committees as well as appointing Board Committees to fact-find and advise the Board on policies, responsibilities, and duties; and

WHEREAS, the Town Board desires, however, to refine the roles and responsibilities of Citizen Advisory Committees and Board Committees, to protect the Town from liability, and to ensure such roles and responsibilities do not interfere or impermissibly overlap with the roles and responsibilities of Town officers and employees, or the powers and duties reserved to the Town Board as a whole; and

WHEREAS, the Planning Commission, Zoning Board of Adjustment, and Building Code Board of Appeals are required bodies in statutory towns with roles and responsibilities assigned by state statute, and Town ordinances not inconsistent with state statutes and therefore are not subject to the policies outlined in this resolution; and

WHEREAS, the Development Review Committee is established pursuant to, and has the duties set forth in, Section 17-2-30 of the Paonia Municipal Code (the “Town Code”) and is comprised of representatives of the Town staff (e.g., Public Works and Utilities, Building Inspector, Town Administrator, Police, and Fire), representatives of utility companies, telephone company, highway department, and school district, and is therefore not addressed in or subject to the policies of this resolution.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Paonia, Colorado, that:

Section 1. Citizen Advisory Committees – General.

A. Each Citizen Advisory Committee shall serve solely as an advisory body to the Town Board, with the sole purpose of providing recommendations to the Town Board. Citizen Advisory Board recommendations shall not be considered Town policy, as establishing Town policy, or as final decisions of the Town, and are therefore not subject to administrative or judicial appeal. Unless otherwise provided in the Town’s ordinances, the Board may, at any time by subsequent resolution: (i) establish, consolidate, or abolish any Citizen Advisory Committee; (ii) modify the roles and responsibilities of any Committee; or (iii) divide any Committee into separate committees.

B. Each Citizen Advisory Committee will provide service that does not conflict or interfere with the functions, roles, responsibilities, powers, or authority of the Town Board, Town officers, and employees or the jurisdiction of other government agencies. Such committees shall have no legislative, executive, or administrative powers, or civil rights, or any investigatory or enforcement authority with regard to potential violations of the Paonia Municipal Code (“Town Code”) or ensuing Town rules and regulations.

C. The Town Administrator will provide at least one annual orientation or training session to all standing Citizen Advisory Committees and will be responsible for assigning Town staff support for the work of such committees when necessary, which support shall be scheduled so as not to unreasonably interfere with the day-to-day responsibilities of any staff member.

D. Except as otherwise expressly stated, meetings of advisory committees do not need to be publically noticed unless more than two Board members plan to attend. Advisory committees have no authority to make decisions on behalf of or bind the Town and serve only as advisory bodies to the Town Board.

E. Advisory citizen committee members shall serve as individuals exercising their best judgment regarding matters relevant to their respective committee’s functions and not as delegates for their respective organizations or groups.

F. Citizens serving on committees are not official representatives of the Town government and may not represent their committee’s recommendations or their personal opinions or points of view as representative of that of the Town government. Committee members must secure permission, by an affirmative vote of the majority of voting members of their respective committees, before: (i) making a formal recommendation to the Town Board, (ii) speaking publicly on behalf of their respective committee, or (iii) representing that such member’s opinions reflect that of the committee as a whole. Under no circumstances shall citizens serving on Citizen Advisory Committees respond to citizen complaints about the Town government or official business of the Town.

G. Citizen Advisory Committees may consult with other Citizen Advisory Committees on matters of mutual interest in developing recommendations to bring to the Town Board.

H. Formal recommendations to the Board must be decided by the affirmative vote of a majority of the voting members of the respective Citizen Advisory Committee. Therefore, each Citizen Advisory Committee desiring to make formal recommendations to the Town Board shall adopt a written committee structure with a set number of voting members. It is recommended that Committees contain an odd number of voting numbers in order to avoid tied votes. If the organizational documents of a Citizen Advisory Committee already establish a set number of voting members (e.g., the North Fork Valley Airport Advisory Committee), such Committee shall adhere to such structure. Citizen Advisory Committees are not limited in the amount of non-voting members serving on their Committee. Citizen Advisory Committees without voting members (e.g., Committees providing a public forum for citizens to participate in discussions specific to a certain category of Town business for the purpose of gathering information that may be passed on to the Board) will be unable to make formal recommendations to the Board. However, the Board Liaison(s) (defined below) appointed to such Committee will provide periodic updates to the Town Board regarding discussions occurring at such Committee meetings.

I. Citizen Advisory Committee voting members will be comprised of individuals who reside within the Town, except for one (1) voting member from each advisory committee may be an at-large member living within the Town’s 3-mile plan area. Ex-officio, non-voting citizen members are not required to be residents or reside within the Town or the 3-mile plan area.

J. The Town Board will appoint voting members of Citizen Advisory Committees at such times as the Board deems appropriate. To be a voting member of a Citizen Advisory Committee, a candidate must be at least eighteen (18) years of age. Board-appointed voting members of Citizen Advisory Committees shall have terms of three (3) years, dating back to January 1 of the year in which the member was appointed. New and renewing applicants must submit a formal application with the Town Clerk for Committee appointment. All regular terms commence with the appointment and shall expire on December 31 of the third year of the member’s term. If a new committee member is appointed to fill the remainder of a recently vacated voting position, the new member will be eligible for reappointment at the end of the partial term they are completing. The Town Board may appoint one to two Board members to serve as liaison between each of the Citizen Advisory Committee and the Town Board (“Board Liaisons”). Board Liaisons shall be non-voting, ex-officio members of the corresponding committees.

K. Board Liaisons will be assigned to Citizen Advisory Committee for one (1) year and eligible for reappointment by the Town Board at a regular meeting in January of each year.

L. In keeping with the diversity, equity, and inclusion goals of the Town of Paonia, efforts will be made to ensure that information regarding standing Citizen Advisory Committee vacancies and the application process is readily available and that such committees are made up of Town residents that represent the diverse populations within the Town. All committees shall assist the Town in ensuring that Town programs related to the committee’s charge are equitable for all community members.

M. All Citizen Advisory Committees serve at the pleasure of the Town Board. Voting members may be removed by majority vote of the Town Board at any time for any reason or no reason at all.

N. Each Committee shall deliver to the Board, prior to January 31 of each year, an annual report of their activities and accomplishments in the preceding year and a work plan for the succeeding year for Board approval.

O. No Citizen Advisory Committee, or individual member thereof, shall direct, attempt to direct, or give orders to any Town officer or employee.

P. The Town Attorney serves the Town government organization and at the pleasure of the Town Board. Under no circumstances may members of Citizen Advisory Committees seek the advice of the Town Attorney, in their capacity as Committee members or otherwise.

Q. If a member of a Citizen Advisory Committee is found to have violated a material provision of this resolution, the respective Committee shall so notify the Town Board. By example, and not by way of limitation, it shall be a material violation of this resolution if a member acts outside of such member’s roles and responsibilities as set forth in this resolution.

Section 2. Standing Citizen Advisory Committees to the Town Board have been established for the following purposes:

A. The Tree Board.

1. The Tree Board has been established pursuant to Chapter 2, Article 7 of the Town Code and shall perform only those duties set forth in Section 2-7-30 of the Town Code in an advisory capacity to the Town Board. The Tree Board shall not investigate or attempt to enforce potential violations of the Town Code or ensuing regulations, guidelines, or master plan documents or perform any other official duties of the Town.

2. Pursuant to Section 2-7-30 of the Town Code, the Tree Board’s roles and responsibilities are as follows:

- (a) Advise the Board of Trustees about selecting, planting, and caring for trees in the Town of Paonia using, when applicable, the “most recent guidelines document” or master plan.
- (b) Support and promote healthy horticultural practices in the community through public education by celebrating Arbor Day every year, maintaining a website, and other community events.
- (c) Prepare the Tree City USA application and “information required” to maintain the Town’s status with the National Arbor Association. Submit the application to the Town Administrator for formal submission to the National Arbor Association.

- (d) The Tree Board, only when requested by formal action of the Town Board, shall consider, make findings, report, and recommend any particular matter of questions within the scope of its work and expertise.

B. The North Fork Airport Advisory Committee.

1. The Town and Delta County are parties to that certain *Memorandum of Understanding Regarding the Ownership, Maintenance, and Management of North Fork Valley Airport*, dated September 21, 2009 (“MOU”), which MOU sets forth the parties respective rights, responsibilities, and authority, with respect to the ownership, operations, management, and governance of the North Fork Valley Airport.

2. The (Paonia) North Fork Valley Airport Advisory Committee shall not act in any way that interferes with or duplicates the rights, responsibilities, and authority of Delta County as set forth in the MOU.

3. The Committee’s sole role is to advise the Board on matters implicating rights reserved to the Town under the MOU when requested by formal action of the Town Board.

4. No member of the Committee shall contact any representative of the Airport directly concerning matters of the Committee, which shall be addressed only to the Town Board.

C. Advisory Water, Sewer, & Trash Committee.

- 1. The Committee shall perform only the following duties:
 - (a) Study and recommend to the Board of Trustees amendments to the provisions of the Town Code addressing the water and sewer systems and garbage, trash, and refuse, when requested by the Board.
 - (b) Study and recommend actions to the Board of Trustees based on written reports, infrastructure analysis, and engineering studies related to the sewer system and water system and supply when requested by the Board.
 - (c) Provide a public forum for recipients of municipal water to participate in discussions specific to the Town’s water system, including but not limited to maintenance, repairs, rates, and management, the purpose of which is to gain information that may be passed on to the Board through the Board Liaison, or in the form of a formal recommendation if the Committee is restructured to contain voting members.
 - (d) To consider, make findings, report, and recommend any particular matter or question coming within the scope of the Committee’s responsibilities to the Board Liaison.
 - (e) Perform all other duties conferred upon the Committee by formal action of the Town Board.

2. The Committee shall not investigate or attempt to enforce potential violations of the Town Code or ensuing regulations, guidelines, or master plan documents or perform any other official duties of the Town.

Section 3. Board Committees are established for the following purposes and shall adhere to the following rules:

A. Board Committees Generally.

1. Board members will be assigned to Board Committees for one (1) year. Board Committee membership will be reappointed by the Town Board at a regular meeting in January each year.

2. Each Board Committee shall consist of two (2) Board Members only and no citizens.

B. Finance Committee.

1. The Finance Committee’s purpose is to review Town invoices and payouts in detail and ensure that financial reports are prepared according to Board Direction. The Finance Committee works with the Town Financial Officer and serves as a liaison between the Town Financial Officer and the Town Board of Trustees. The Board of Trustees approves payments of the Town’s expenses. The Town Mayor may also fill in for one of the Finance Committee members if they cannot attend a Finance Committee work session.

2. The Finance Committee shall have the following responsibilities:

(a) Review all expense invoices with the Town Financial Officer.

(b) Review all payroll with the Town Financial Officer.

(c) Recommend approval of payments for Town expenses to the Board of Trustees.

(d) Serve as the primary signatories of Town distributions. Additional signatories for distributions are the Town Mayor, Town Clerk, and Deputy Town Clerk for emergency disbursements or when one of the trustees may not be available. Review end-of-the-month balance sheet reconciled accounts, bank statements, reconciliations, electronic transactions, journal entries, and un-posted entries.

(e) Review the annual audit with the Town auditor and be a liaison to the Board of Trustees concerning the audit.

C. Parks Committee. The Town Board shall develop and establish written roles and responsibilities for the Parks Committee consistent with the Town’s adopted organizational structure by amendment to this resolution at a future date.

D. Streets Committee. The Town Board shall develop and establish written roles and responsibilities for the Streets Committee consistent with the Town’s adopted organizational structure by amendment to this resolution at a future date.

E. Personnel Committee. The purpose of the personnel committee is to assist the Board of Trustees in selection of their direct reports, including the Town Attorney, Town Administrator, and Police Chief. It should be noted that the personnel committee is part of the legislative branch of Town government and does not have authority to manage the Town staff directly. That job is rightly performed by the Town Administrator.

F. Public Safety Committee. The Town Board shall develop and establish written roles and responsibilities for the Public Safety Committee consistent with the Town’s adopted organizational structure by amendment to this resolution at a future date.

Section 4. The Town Attorney is directed to return to the Town Board of Trustees promptly with any Town Code amendments necessary to ensure consistency between the Town Code and the policy established by this resolution.

Section 5. Any previous resolutions, policies, or documents, or any portions therefore, that conflict with the provisions of this resolution, are hereby repealed to the extent of such conflict.

PASSED, APPROVED, AND ADOPTED by the Board of Trustees of the Town of Paonia on this 28th day of February 2023.

Mary Bachran, Mayor

ATTEST:

Samira Vetter, Town Clerk

**RESOLUTION 12-2022
A RESOLUTION OF THE
TOWN OF PAONIA, COLORADO,
CREATION AND DESIGNATION OF
THE NORTH FORK VALLEY
AIRPORT ADVISORY COMMITTEE**

DESIGNATING THE NORTH FORK VALLEY AIRPORT ADVISORY COMMITTEE TO REPRESENT AND ADVISE THE TOWN OF PAONIA ON MATTERS RELATED TO THE NORTH FORK VALLEY AIRPORT (7V2, Colorado State airport identifier)

WHEREAS, The Delta County Colorado Board of County Commissioners (The County) disbanded the Delta County Colorado Airport Advisory Board and replaced it with a Delta Blake Field specific Advisory Board;

WHEREAS, The Town of Paonia (The Town) desires to have user input reference any operation and administration questions arising from of the North Fork Valley Airport;

WHEREAS, The 2009 operational Memorandum of Understanding (MOU) and supplement with Delta County, Colorado as to the management, maintenance, income and capital improvements at the North Fork Valley Airport remains in full effect;


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

1. Hereby establishes the North Fork Valley Airport Advisory Committee (The Committee)
2. Said Committee shall consist of three (3) persons with interest in in The North Fork Valley Airport and one (1) person representing the Town of Paonia, the Fixed Base operator (FBO) at the North Fork Valley Airport shall be an ex-officio member of the Committee
3. Application of interest to become a member of said Committee shall be made in writing to the Paonia Board of Trustees
4. Each of the 3 airport interested Committee members shall serve a term of four (4) years. At the initiation of the Committee, 2 members shall be appointed for 4 years and 1 shall be appointed for 2 years to stagger the terms. The Town appointed member shall be appointed, per any need, following election cycles
5. The Chair of the North Fork Valley Airport Advisory Committee shall be elected by its members
6. The North Fork Airport Advisory Committee has only the authority to advise the Town of Paonia reference pertaining to 7V2

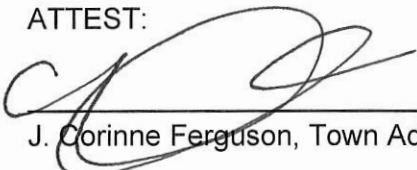
Duties of the North Fork Valley Airport Advisory Committee:

- A. The Committee shall be the liaison between The Town and The County on airport matters including information sharing and planning required at 7V2
- B. The Committee shall report any budgetary requirements at 7V2 to the Paonia Board of Trustees in a timely basis
- C. The Committee shall create a 5- and 10-year master plan for the airport and keep it on file at the Town of Paonia
- D. The Committee shall report to the Paonia Town Council in March and September of each year, and additionally as needs arise
- E. The Committee shall conduct tours of 7V2 with new Paonia Trustees and other interested parties as to the ownership, operation, maintenance, and capital improvements required at 7V2

ADOPTED this 8th day of September 2022, by the Town Board of Trustees of the Town of Paonia.

TOWN OF PAONIA, COLORADO


Mary Bachran, Mayor

ATTEST:


J. Corinne Ferguson, Town Administrator/Clerk



**MEMORANDUM OF UNDERSTANDING REGARDING THE OWNERSHIP,
MAINTENANCE, AND MANAGEMENT OF NORTH FORK VALLEY AIRPORT**

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is entered into this 21st day of September, 2009, by and between the Town of Paonia and Delta County (hereinafter jointly referred to as "the parties").

The parties desire to clarify their ownership interests in the Airport property and specify the rights and responsibilities of the owners with respect to capital construction upon, and operation, maintenance and governance of, the Airport, including financial contributions, past, present and future.

RECITALS

A. The North Fork Valley Airport (NFVA or "the Airport") is located on property described in Exhibit A, attached hereto and by reference made a part hereof ("Airport property"). The Airport property consists of approximately 166 acres. In addition, the airport currently uses a parcel of land consisting of approximately 1.9 acres +/- owned exclusively by Delta County ("County property").

B. Paonia Ordinance #279, dated February 6, 1962, recorded March 7, 1962, authorized the Town of Paonia to convey a one-fourth (1/4) undivided interest of the Airport property to each the County of Delta (County), Town of Hotchkiss, and Town of Crawford. By deed recorded on March 7, 1962, the Town of Paonia conveyed to the County an undivided one-fourth (1/4) interest of the Airport property. No other deeds have been located. On April 28, 2009, the Paonia Town Council adopted Ordinance #2009-4 retracting its offer of one-fourth (1/4) ownership of the Airport property to the Town of Hotchkiss and one fourth (1/4) ownership of the Airport property to the Town of Crawford and confirmed that three-fourths (3/4) ownership of the Airport property by the Town of Paonia and one-fourth (1/4) ownership of the Airport property by the County.

Memorandum of Understanding Regarding the Ownership, Maintenance, and Management of North Fork Valley Airport

C. Therefore, for purposes of this MOU, the parties agree that ownership of the Airport property is and shall continue to be vested as a ¾ undivided interest (75%) in the Town of Paonia, and a ¼ undivided interest (25%) in the County of Delta. The parties agree that as of the date of this MOU, the Airport property is currently assessed by the Delta County Assessor’s Office at \$896,258 and that this amount includes all jointly owned land and airport improvements, but does not include hangar 5 and the small parcel of County land.

List of Assets:

• Parcel # R007397, consisting of 28.0 acres	\$100,000
• Parcel # R021909, consisting of 81.8 acres	\$409,000
• Parcel #R021908, consisting of 53.6 acres	\$268,000
• Airport Office	\$ 2,209
• Residence	<u>\$117,099</u>
• TOTAL ASSET VALUE	\$896,258

D. At some point in time, Delta County assumed responsibility for the operation and maintenance of the NFVA, including entering into Lease and Management Agreements with Fixed Based Operators and ground lease agreements for the location and construction of privately owned hangars. In 1969, the Board of County Commissioners of Delta County adopted a Sales Tax Resolution which was approved at an election conducted for that purpose, which Resolution provided that an unallocated portion of “65% of the proceeds of said tax” shall be applied to, among other things, “operate and maintain the present Delta and North Fork airports.” The Resolution also provided that the same 65% of the tax proceeds would be used to operate and maintain the present county and municipal police and fire radio communication systems; to advertise and promote Delta County and its municipalities; to promote water resources in the area; to operate and maintain adequate dumps for the disposal of waste in the County; and to operate and maintain a county library. The Resolution provided no specific allocation of the 65% of the tax proceeds to these various purposes. However, in an attempt to quantify what amount of the sales tax proceeds have been allocated to the NFVA, Exhibit B, attached hereto and by reference made a part hereof, documents income and expenses relating to the Airport property from 1999 through 2008.

Memorandum of Understanding Regarding the Ownership, Maintenance, and Management of North Fork Valley Airport

E. In 2006, the Board of County Commissioners of Delta County adopted Resolution Number 2006-R-007, which established an Airport Advisory Board consisting of nine members “for the purpose of advising the Board of County Commissioners of Delta County on issues concerning the development and operations of the County airports.”

DEFINITIONS

For purposes of this MOU, the parties hereto agree that the terms used herein shall be defined as follows.

Airport Operations: All activities necessary to operate NFVA as a general aviation airport in its current condition, including, but not limited to:

- Entering into lease agreements with Fixed Based Operators (FBOs) for the day-to-day management of the airport.
- Entering into individual ground lease agreements for hangars.
- Entering into contracts and/or private partnerships as necessary to ensure or enhance airport operations.

Airport Maintenance: Maintaining existing airport facilities and improvements in a safe and serviceable condition. Maintenance may include, but is not limited to:

- Ensuring that the surfaces of existing runways and taxiways are kept sealed and free of cracks and erosion;
- Ensuring that existing runways and taxiways are kept free of snow and debris;
- Ensuring that all lighting, signage, safety markers, windsock, and fences are maintained and kept in working order;
- Ensuring that the airport office/lounge is maintained and the restrooms are maintained in working order;
- Maintaining existing county and/or municipally-owned hangars in a serviceable condition;

Memorandum of Understanding Regarding the Ownership, Maintenance, and Management of North Fork Valley Airport

- Ensuring that the Airport property is kept free of junk, debris, and weeds;
- Maintaining access roads on the Airport property.

Capital Improvements: The addition of fixed assets and structural improvements to the Airport property that enhance the Airport property's overall value, or a restoration, replacement or upgrade that extends the useful life of an improvement. Capital improvements include, but are not limited to:

- New construction of buildings, runways, taxiways, hangars, lighting, fencing, fuel farm, pump station, additions or improvements to fire suppression facilities, or other airport improvements, including the cost of architectural services, engineering services, surveying, site preparation, construction, plumbing, wiring, or otherwise furnishing and equipping such buildings and facilities for use.
- Restoration, replacement, or upgrade of existing buildings, runways, taxiways, hangars, or other airport improvements or facilities, that extends—not merely maintains—the life of the building, runway, taxiway, hangar or other airport improvement or facility.
- Costs of utility upgrades necessary to accommodate capital improvements.
- Land acquisition.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and in accordance with the prior commitments of the parties hereto, the parties agree as follows:

1. No party to this Agreement shall be obligated to pay to or receive from any other party any money based upon expenses incurred for or income received from the NFVA prior to the execution of this Agreement.

Memorandum of Understanding Regarding the Ownership, Maintenance, and Management of North Fork Valley Airport

2. After the execution of this Agreement, all income received from the operation of the NFVA shall be tracked as a separate line item in the County's General Fund for the sole use and benefit of the NFVA.

3. The County shall continue to have the right, responsibility, and authority to manage, operate, maintain, and govern the NFVA. The Town of Paonia shall act in an advisory capacity, and an individual appointed by the Town Council shall sit on the Airport Advisory Board appointed by the Board of County Commissioners.

4. The parties agree that the County has exclusive ownership of hangar 5, and may sell or lease this hangar to another party without the consent of the Town of Paonia.

5. Except as set forth herein, neither party may sell, lease, convey or encumber the Airport property without the written consent of the other; and no part of the Airport property may be assigned or used as collateral for any purpose other than to secure improvements to the Airport property which are agreed upon in writing by both parties.

6. The parties may enter into a joint written agreement to lease or sell the Airport property, in part or as a whole, for fair market value, under such terms and conditions as the parties may agree, subject to any limitations of federal and state law. Should all or part of the Airport property be sold or leased, the "net income" from the Airport property (gross income less reasonable and necessary costs to sell or lease the property) shall be shared in proportion to the parties' respective ownership interests, as set forth in Recital C above.

7. Either party shall have the right, upon six (6) months written notice, to terminate this Agreement, at which time the parties may agree to one of the following options:

- a. The non-terminating party may continue the operation and maintenance of the NFVA, and the terminating party shall assign all of its rights, excluding property rights, and responsibilities to the non-terminating party. If the County is

Memorandum of Understanding Regarding the Ownership, Maintenance, and Management of North Fork Valley Airport

the terminating party, the County agrees to continue to pay to the non-terminating party or its designee the sales tax referred to in Recital D above, in an amount equal to the most recent 5 year average of the annual contributions to the Airport Fund, with future annual increases based on the U.S. City Average Consumer Price Index for all Urban Consumers (CPI-U). Exhibit B, attached hereto and by reference made a part hereof, documents income and expenses relating to the Airport property from 1999 through 2008.

b. The parties may agree to either lease or sell the Airport property in accordance with paragraph 6 above.

c. If the parties are not able to reach an agreement, either or both parties may sell the portion of the Airport property they own, as set forth in Recital C above, with the other party, respectively, having the First Right of Refusal, for sixty (60) days following the receipt of written notice of the selling party's intention to accept a specific offer, to purchase the share of the selling party on the same terms and conditions as the offer to purchase that the selling party intends to accept. If the First Right of Refusal is not exercised and the selling party does not consummate the sale as intended, the First Right of Refusal shall continue to exist for both parties, respectively, with respect to future offers to purchase made to the selling party which they might intent to accept.

8. The parties may agree to modify this agreement at any time, in whole or in part. Any such modification shall be in writing, signed by both parties.

RIGHTS AND DUTIES OF THE PARTIES' RESPECTIVE OWNERSHIP INTERESTS

A. Insurance

The County shall maintain and pay for liability insurance in a combined aggregate amount of two million dollars (\$2,000,000.00). The parties hereto agree that liability insurance

Memorandum of Understanding Regarding the Ownership, Maintenance, and Management of North Fork Valley Airport

is a necessary operational expense and is therefore the responsibility of the County as part of its duties to operate and maintain the airport. The Town of Paonia shall be added as an additional insured to the liability insurance policy carried by the County.

The parties shall maintain property insurance in a combined aggregate amount of \$900,000. Payment for the property insurance shall be shared by the parties in proportion to their ownership interests of the property, to wit: The Town of Paonia shall pay 75% and Delta County shall pay 25% of the property insurance premium for the Airport property.

Owners and lessors of all hangars on the airport shall be responsible for payment of their own liability and property insurance for their respective hangars.

B. Capital Improvements

Any capital improvements or construction on the Airport property shall require the written approval of both governing boards. The cost of any such capital improvements or construction so approved shall be shared by the parties in proportion to their respective ownership interests of the Airport property, to wit: The Town of Paonia shall pay 75% and Delta County shall pay 25% of such costs. The cost of capital improvements may include, but are not limited to, feasibility studies, site planning, engineering, architecture, design and construction of infrastructure, and design and construction of permanent improvements that extend the useful life of existing structures or amenities. Such costs shall be exclusive of grants and third party contributions. Should the parties agree to any capital improvements or construction, but one party is unable to fund its share of the cost on a timely basis, the parties may agree in writing that the other party may advance those funds, to be repaid pursuant to the agreement of the parties and/or upon the sale of the property pursuant to Paragraph 6, or in some other manner. The parties must also agree on the terms of payment, including interest.

Should any third party, such as a pilot or group of pilots, wish to propose, develop and finance a capital improvement project or participate in any capital improvement project, either by direct financial contribution or in-kind, both the County and Town of Paonia must approve such action of the third party. Any such third party in-kind or direct financial contribution will be subtracted from the total cost of the capital improvement project. The Town of Paonia shall pay

Memorandum of Understanding Regarding the Ownership, Maintenance, and Management of North Fork Valley Airport

75% and Delta County shall pay 25% of the remaining cost of the capital project. Neither the County nor the Town of Paonia will have any obligation to repay any third party for such capital improvement, even though the capital improvement may increase the assessed value of the property.

C. Other Uses of the Airport Property

Any private partnership agreements, contracts, or leases for the use of the Airport property for purposes other than the operation and maintenance of the airport shall only be executed with the written agreement of both parties.

COUNTY OF DELTA
Board of County Commissioners

By: R. Olen Lund
R. Olen Lund, Chair

By: Lela J. McCracken
Lela J. McCracken, Vice-Chair

By: C. Bruce Hovde
C. Bruce Hovde, Member

TOWN OF PAONIA

By: Neal J. Schwieterman Neal J. Schwieterman, Mayor
Patricia Bliss Patricia Bliss, Mayor Pro-Tem

Attest: Barbara J. Peterson Barbara J. Peterson, Town Clerk
091649





DELTA COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS

COUNTY COURTHOUSE • 501 PALMER STREET • SUITE 227 • DELTA • COLORADO • 81416-1796

PHONE: (970) 874-2100 FAX: (970) 874-2114

www.deltacounty.com

Dist. 1: Lela J. "Jan" McCracken - Dist. 2: C. Bruce Hovde - Dist. 3: R. Olen Lund

September 23, 2009

Neil J. Schwieterman, Mayor
Town of Paonia
214 Grand Avenue
P.O. Box 460
Paonia, CO 81428

Re: MOU: North Fork Valley Airport

Dear Mr. Schwieterman:

I am enclosing the original Memorandum of Understanding regarding the Ownership, Maintenance and Management of North Fork Valley Airport which has been properly signed by the Board of Delta County Commissioners.

If you have any questions, please feel free to call Jeff Emmons at (970) 874-3379.

Thank you.

Sincerely,

Carolyn S. Clemens
Executive Assistant

Enclosure:

ORDINANCE NO. 2021-04

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, AMENDING CHAPTER 2 ARTICLE 7, SECTION 10 TO THE TOWN OF PAONIA MUNICIPAL CODE

RECITALS:

WHEREAS, the Town of Paonia (the “Town”), in the County of Delta and State of Colorado, is a municipal corporation duly organized and existing under the laws of the State of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-702 the Town has the power to regulate the planting of ornamental and shade trees and the use of the same on public property; and

WHEREAS, under Chapter 2, Article 7 the Town has established a Tree Board for the regulation and protection of trees on municipal property and within the Town rights-of-way; and

WHEREAS, the Board of Trustees determines that it is in the best interest of the community and the public health, safety and welfare of the citizens of the Town to amend the Town Code regarding the operation of the Town Tree Board.

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

Section 1. Legislative Findings.

The recitals to this Ordinance are adopted as findings of the Board of Trustees in support of the enactment of this Ordinance.

Section 2. Amendment of Town Code.

(A) Chapter 2, Article 7 shall be repealed and replaced with the following:

Sec. 2-7-10. – Purpose.

It is the purpose of the Town to promote and protect the public health, safety, and general welfare by providing for the regulation of planting, maintenance, and removal of trees on Town-owned property and within town rights-of-way. There is hereby created a Tree Board which shall be advisory in character and will represent the Paonia community in providing guidance and input to the Town Administrator, Town Board of Trustees, and Town staff on trees as defined under Article 5, Section 2-7-30.

Sec. 2-7-20. - Membership; terms.

The Tree Board shall consist of a minimum of two (2) and a maximum of six (6) volunteer community members, who need not reside within the limits of the Town and one (1) member of the Board of Trustees. Members shall serve without compensation. There will be a chair and secretary of the Tree Board, as chosen by majority vote of its members. All Tree Board members shall be appointed by the Board of Trustees. The terms of office for the Tree Board shall be two (2) years renewable by the Board of Trustees; and the member of the Board of Trustees consistent with his/her term of office.

Sec. 2-7-30. – Duties.

(a) It shall be the responsibility of the Tree Board to advise the Town Board and Town Administrator about the selection, planting, and care of trees in the town of Paonia referring when applicable to the most recent guidelines document or master plan.

(b) The Tree Board shall support and promote healthy horticultural practices for our climate through public education by celebrating Arbor Day every year, by maintaining a website, and through other community events.

(c) The Tree Board shall prepare, in a timely fashion, the Tree City USA application and information required to maintain the Town of Paonia's status as a Tree City USA community, as approved by the National Arbor Day Foundation,

(d) The Tree Board, when requested by the Town Administrator, shall consider, investigate, make findings, report, and recommend upon any special matter of question coming within the scope of its work and expertise.

Section 3. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 4. Repeal of Prior Ordinances.

All other ordinances or parts of ordinances in conflict herewith are hereby repealed. **Section 5. Ordinance Effect.**

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed, provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 6. Effective Date.

This Ordinance shall take effect thirty days after publication.

INTRODUCED, READ AND ADOPTED by the Board of Trustees of the Town of Paonia, Colorado, on the 8th day of June 2021.

**TOWN OF PAONIA, COLORADO, A
MUNICIPAL CORPORATION**

By: 
MARY BACHRAN, Mayor

ATTEST:

Corinne Ferguson, Town Administrator/Clerk



ORDINANCE NO. 2020-09

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, CREATING AN ADVISORY WATER COMMITTEE OF THE TOWN

RECITALS:

WHEREAS, the Town of Paonia (the “Town”), is a statutory town and municipal corporation in Delta County, Colorado, governed by and through its Board of Trustees (the “Board”); and

WHEREAS, pursuant to C.R.S. § 31-35-501, the Town has the authority to create a nonpolitical, local legislative body designated as a board of commissioners to address executive, administrative and ministerial powers regarding water and sewer facilities; and

WHEREAS, in an effort to provide administrative assistance to both the Town’s Board of Trustees and the Town’s Department of Public Works, there shall be an amendment to the Municipal Code of the Town creating an Advisory Water Committee; and

WHEREAS, pursuant to Section 2-2-90 of the Town Municipal Code (the “Town Code”), the Board shall create and appoint members to such boards and commissions as may now or hereafter exist.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA as follows:

Section 1. Legislative Findings.

The foregoing Recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Board of Trustees.

Section 2. Addition to the Town Code:

Sec. 2-10-10 to Sec. 2-10-50 of the Town Code is added as follows:

Sec. 2-10-10. – Creation.

An Advisory Water Committee is hereby created.

Sec. 2-10-20. – Organization.

1. The Committee shall have no less than three (3) nor more than five (5) members; one (1) membership shall be filled by a current member of the Board of Trustees; one (1) membership shall be filled by a representative from the Town’s Public Works Department or Administrative staff, and not less than one (1) nor more than three (3) memberships shall be members of the public.

2. It is the preference of the Board of Trustees that, of those members of the public encompassing Committee membership, one (1) shall be an in-Town water user, one (1) an out-of-Town water user, and one (1) an authorized representative of a local water company.

3. Appointment to membership shall be by the Board of Trustees. The initial term of the Committee membership shall be staggered, with the Board of Trustees setting the number of Committee members and the length of their term. Upon expiration of the initial terms, any subsequent appointees shall serve a term of three (3) years, unless they no longer qualify to serve on the Committee or are removed from the Committee by vote of the Board of Trustees. Vacancies on the Committee shall be filled for the remaining term in the same manner as the initial appointment.

Sec 2-10-30. – Purpose of the Committee.

The Committee is created for the following purposes:

1. To study and recommend to the Board of Trustees amendments to the sections of Municipal Code that address the Town of Paonia water system, including but not limited to Sec. 13 Article 1 of the Town Code.

2. To study and recommend to the Board of Trustees actions based on any written reports, infrastructure analysis and any engineering studies commissioned by the Town of Paonia related to the Town’s water system and supply both in and out of Town.

3. To provide a regularly scheduled forum for any recipient of water from the Town’s water system to participate in discussions specific to the water system, including but not limited to maintenance, repairs, rates, and management.

4. To consider, investigate, make findings, report and recommend on any special matter or question coming within the scope of its work to the Town’s Public Works Department and/or to the Board of Trustees.

Sec 2-10-40 - Appointment of Officers

The Committee shall elect its Chair from among its membership and create and fill such other of its offices as it may determine. The term of such office for each officer, including that of the Chair, shall be for two (2) years. The Committee may hold at least one (1) regular meeting 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 public.

Sec 2-10-50 – Power and Duties

In addition to adhering to its purpose and enumerated under Sec. 2-10-30 of the Town Code, the Committee shall have all the powers to perform each and all of the duties conferred upon it by the Board of Trustees.

Section 4. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 5. Repeal of Prior Ordinances.

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. Ordinance Effect.

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed; provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded, and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 7. Effective Date.

This Ordinance shall take effect thirty (30) days after passage.

INTRODUCED, READ AND REFERRED for second read before the Board of Trustees for the Town of Paonia, Colorado, on the 25th day of August 2020.

HEARD AND FINALLY ADOPTED by the Town of Paonia Board of Trustees for the Town of Paonia, Colorado, on the 8th day of September 2020.

TOWN OF PAONIA

By: 
MARY BACHRAN, Mayor

ATTEST:


J. CORINNE FERGUSON, Town Clerk



Town of Paonia Board of Trustees Water, Sewer and Trash Committee Duties

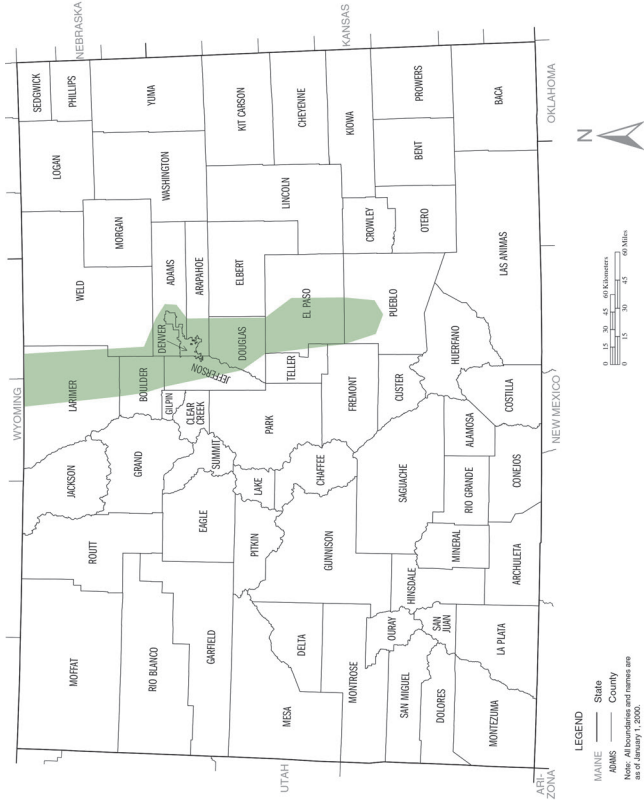
The purpose of the water, sewer and trash committee is to assist the Mayor and Town staff with water, sewer and trash issues. It should be noted that this committee is part of the legislative branch of Town government and therefore does not have the authority to directly manage the Public Works Department. That job is rightly performed by the Mayor, the Town Manager and the Director of Public Works. The duties of the committee include:

- ⤴ Develop water, sewer and trash policies, drafting them through work sessions with the rest of the Town Board and finally shepherd them into an ordinance.
- ⤴ Budget for Town water, sewer and trash expenses considering needs and resources.
- ⤴ Inspect regular budget reports to make sure the water, sewer, trash expenses and revenues are on track.
- ⤴ Do long range planning on capital improvements to the water, sewer and trash systems.
- ⤴ Provide quality control for the water, sewer and trash systems, inspecting facilities as needed.
- ⤴ Be a board of review when a citizen has a complaint or suggestion about water policies, billing problems or infrastructure concerns. The Town Clerk can refer citizens to this committee for resolution. This may require that the committee take the issue before the Town Board for a vote.
- ⤴ Review contractors who provide public works support to the Town.
- ⤴ Review request for bids on water, sewer or trash projects.
- ⤴ Cooperate with water companies using Town water.
- ⤴ Cooperate with the Bone Mesa Domestic Water District regarding shared water resources.
- ⤴ Cooperate with the Forest Service regarding springs and facilities located on their land.
- ⤴ Protect and enhance the water resources of the Town.

- ⤴ Meet regularly with the Public Works Director about current water, sewer and trash issues.
- ⤴ Report a summary of recent water, sewer or trash activities at each regular Town meeting.

Low-Water Native Plants for Colorado Gardens: *Front Range & Foothills*

Front Range and Foothills Region



This range map is approximate. Please be familiar with your area to know which booklet is most appropriate for your landscape.

The Colorado native plant gardening guides cover these 5 regions: Plains/Prairie, Front Range/Foothills, Southeastern Colorado, Mountains above 7,500 feet, Lower Elevation Western Slope

This publication was written by the Colorado Native Plant Society Gardening Guide Committee: Irene Shonle, Director, CSU Extension, Gilpin County; Nick Daniel, Horticulturist, Denver Botanic Gardens; Deryn Davidson, Horticulture Agent, CSU Extension, Boulder County; Susan Crick, Front Range Chapter, Wild Ones; Jim Tolstrup, Executive Director, High Plains Environmental Center (HPEC); Jan Loechell Turner, Colorado Native Plant Society (CoNPS); Amy Yarger, Director of Horticulture, Butterfly Pavilion. Scientific names are from the *Flora of North America*.

Photo credits: Gardening Guide Committee members, LBJ or otherwise listed. Map: U.S. Census Bureau, Census 2000

Front Cover: Turner yard, Photo by Jan L. Turner Back Cover: Scarlet Glabemallow, Photo by Rick Brune.



Garden at the Schultz Residence in Fort Collins. Colors and textures create an eye-catching combination in the Schultz's garden. In the left foreground, the purple flowers of desert four o'clock (*Mirabilis multiflora*) are abundant and beautiful, opening in the afternoon. Each plant can spread to cover a large area (4' x 4') and can drape over terraces. Showy orange butterfly milkweed (*Asclepias tuberosa*) attracts a collection of bees and butterflies (and humans!) and can serve as a host plant for larvae of Monarch butterflies. The soft, blue-grey leaves of Prairie sage (*Artemisia ludoviciana*) form the perfect backdrop for the butterfly milkweed. Photo by Jim Tolstrup.

Introduction

This is one in a series of regional native planting guides that are a collaboration of the Colorado Native Plant Society, CSU Extension Native Plant Master® Program, Front Range Wild Ones, the High Plains Environmental Center, Butterfly Pavilion and the Denver Botanic Gardens.

Many people have an interest in landscaping with native plants, and the purpose of this booklet is to help people make the most successful choices. We have divided the state into 5 different regions that reflect different growing conditions and life zones. These are: the plains/prairie, southeastern Colorado, the Front Range/foothills, the mountains above 7,500', and lower elevation Western Slope. Find the area that most closely resembles your proposed garden site for the best gardening recommendations.

Why Native?

There are many benefits to using Colorado native plants for home and commercial landscapes. They are naturally adapted to Colorado's climates, soils and environmental conditions. This means that by choosing native plants gardeners can work with nature, rather than trying to grow plants that are not suited to our local conditions and may prove to be difficult to work with.

When correctly sited, natives make ideal plants for a sustainable landscape. Native species require less external inputs such as water and fertilizer, and are more resistant to pests and disease when the planting site mimics the plant's native habitat. Landscape water use accounts for about 55 percent of the residential water used across the state of Colorado, most of which is used on turf. Planting less-thirsty natives has the potential to lessen the burden on our water systems.

Another great reason to go native is to restore habitat. Rapid urbanization in the state is reducing biodiversity (the number of different species found in a given area) as habitat is removed for building and road construction. Research has shown that landscaping with natives on a large, or small scale, helps maintain biodiversity that otherwise would be lost to development. Thousands or millions of gardens planted with natives, even in urban areas can add food, shelter and other important resources for wildlife, including mammals, birds and native pollinators.

Growing native plants does not exclude using adapted non-native plants. There are many non-native plants that are adapted to Colorado's climate and can be used in a native landscape as long as moisture, light and soil requirements are similar. Even if a site has a non-native landscape that requires additional inputs (such as an irrigated landscape on the plains), dry-land native plants can be used in non-irrigated pockets within the non-native landscape. These native "pocket gardens" can be located in areas such as median strips and next to hardscapes that are difficult to irrigate. Note that in years with less than normal rainfall, non-irrigated landscapes may suffer in appearance without supplemental water.

Gardening with native plants also prevents the introduction and spread of noxious weeds. Many noxious weeds were intentionally introduced as garden plants that belatedly were found to escape the confines of the garden and crowd out native plants.

Some communities regulate landscape appearance or the type of plants which may be used. Before initiating any new landscape design, check with local municipalities and/or homeowners' associations, to discover any regulations that may affect your design.



The Turner's yard: A berm with native plants is interesting and colorful. Plains yucca (*Yucca glauca*) on the right is in bloom. Behind the yuccas, higher on the berm are tall blooming stalks of orange littleleaf globemallow (*Sphaeralcea parviflora*). In the lower left is blue flax, that will shed its petals in the afternoon. Harebells, and chimingbells (*Mertensia lanceolata*). The bright yellow flowers of little sunflower (*Helianthus pumilus*) are in front of the yucca. Photo by Jan Turner.

Finally, using native plants in landscapes helps provide a special sense of place, celebrating Colorado's uniqueness and beauty, rather than a generic landscape. A garden with native plants feels more harmonious with its surroundings, than a landscape transplanted from another locale.

Native Plant Gardening in Colorado's Front Range and Foothills

The Front Range and foothills region of Colorado is the area east of the Continental Divide and west of the prairies and plains (see map). It is an area with a high diversity of plant life and growing conditions. Running north-south, it includes the cities of Fort Collins, Greeley, Loveland, Longmont, Boulder, Golden, Denver and its suburbs. Castil

Rock, Colorado Springs, Pueblo and Cañon City will be included in the Southeastern Colorado guide.

The Front Range and foothills include everything from forests and rocky hillsides, to riverbeds, marsh wetlands and short grass prairie. With the wide range of growing conditions and native plants available, depending on where you live, you may be able to represent several vegetative communities within your garden successfully.

The proximity to the Rocky Mountains gives the Front Range and foothills a complex climate. This area can experience high winds, localized heavy rains, high snowfall and/or long periods of drought. It receives less precipitation than the mountains to the west and maintains relatively low humidity.

Soils range from well-drained and rocky with little organic matter, to sticky, heavy clay. It is important to determine what type of soil you have before you begin selecting plants.

There is a great deal of wildlife within this area. Even urban and suburban areas can be home for a variety of songbirds, bees and butterflies. Gardeners in these areas may have to take measures to repel rabbits or squirrels. Areas closer to the foothills may have to protect their plantings from deer or elk.

Culture and Maintenance

Soils

Colorado soils, on average, are fairly low in organic matter and high in pH (alkaline). The good news is that native plants usually can be successfully grown in unamended soils. This is because natives do not require nutrient rich, high organic content soil, and can often become overgrown or short lived in such soils. Many native plants, especially those from prairies or the Front Range, will thrive in clay soils. However, some native plants require well-drained soils. To amend clay soils, add 10 percent compost and 15 percent small aggregate (i.e., pea gravel) by volume to clay/clay loam and incorporate into the root zone. Creating a small berm and planting on the top can also be helpful to improve drainage. To amend excessively well-drained sandy or rocky soils, add 3 percent compost by volume. It may be beneficial to test the soil before planting, especially on a larger project. Soil testing kits are available at your local CSU Extension office.

Maintenance

Native plants often do not need much maintenance; just the usual pruning of dead or diseased material, and cutting back perennials in the spring. Leaving seed heads on the plants in the fall will not only provide a feast for birds, and protect caterpillar eggs and chrysalises, but will increase plant hardiness and winter interest. Native plants typically do not require fertilizer. Some tasks, such as weeding and deadheading, require the same time investment for native plant gardens as for gardens with non-natives.

Watering

Plants will need to be watered for at least the first season, with the most critical time being the first three weeks after planting. Once they are established, water can be cut back gradually. After establishment, some natives can be taken off irrigation completely. Place plants that have higher water needs nearer the house or other highly used areas. These plants can also be planted in swales (lower areas), or near downspouts for passive water harvesting.

Limiting/reclaiming turf areas

Although grass lawns are popular, they generally use more resources like water, fertilizers, pesticides, and maintenance (mowing) than a landscape of native plants. Lawns also provide no habitat for pollinators and birds. Native landscapes, on the other hand, are less resource intensive, provide habitat and provide more interest and color. Consider either limiting grass lawns to play, pet, or entertaining areas, or replacing lawns altogether if these spaces are not needed.

To reclaim a space formerly devoted to a lawn, spend some time eradicating all grasses and weeds. Grass is easier to kill when it is green and actively growing in the spring or fall. There are a few options for this. One is to use a glyphosate-based herbicide, another is to cut out all the sod, and a third is to solarize the area. Solarization works best in the heat of the summer in full-sun areas.

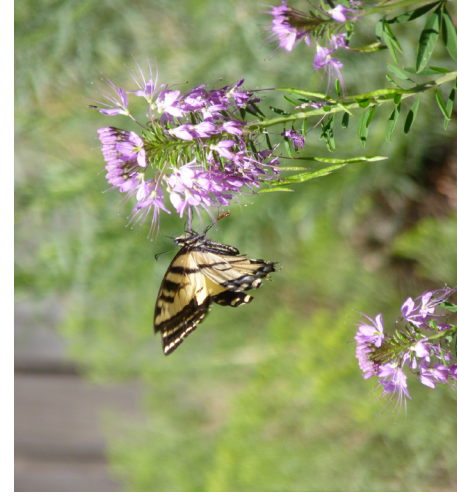


This lawn is being smothered by layers of newspapers covered with several inches of mulch (created from a dead tree that was ground up). Photo by Jan Turner

Mow the area and remove the clippings, water, place clear plastic on top (burying the edges with soil) and leave it for 4-6 weeks. A final option is to sheet mulch. Cover the area with sheets of cardboard or 12 layers of newspapers. Overlap these materials at least 6 inches so no light penetrates and wet them down to keep them in place. Place 1 inch of compost on top of the barrier layer. Add at least 6 inches more of mulch or compost (grass clippings, straw or leaves) and leave 4-6 weeks. Make sure that all of the grass is smothered because any grass that remains will be difficult to remove if it grows around your new plants.

Wildlife and Pollinators

Providing habitat for songbirds and pollinators is one of the great pleasures of gardening with native plants. To maximize habitat for pollinators, plant a diversity of plants, and aim to provide the longest possible season of bloom.



Butterfly on Rocky Mountain bee plant (*Cleome serrulata*). Photo by Jan Turner.

Many plants will provide nectar for adult insects, but consider the larval stage in planting too. Most native insects have specialized relationships with native plants, and require specific plants to grow from egg to adult. As an example, many butterflies will sip nectar from non-natives, but the eggs need to be laid on specific plants or the caterpillars won't recognize the plant as food. Purchase pesticide-free plants. There has been recent concern that neonicotinoids are harmful to bees, so look for neonic-free plants.

Birds use native plants for food and shelter, but insects are an overlooked and crucial part of many bird's diets. Far more insects will develop on native plants than exotics, providing food for birds during the critical nesting season. Consider planting a 'thicket' of berry-producing shrubs. If planted in the direction of the prevailing wind, this thicket can also provide a space of calm air for butterflies.

Inventory Your Yard & Microclimates

For the best garden, spend some time in the planning stage. Identify where you would like to create a new bed, or replant an existing one. Inventory the areas in your yard for sun and shade, and for areas where moisture accumulates. Consider what areas have easiest access from the house, and if there are views you would like to enhance or block. All of these factors create what are known as *microclimates* or small, but potentially significant changes in the immediate environment that will affect your plants. Knowing these ahead of time will help you make the most of your site and can guide your plant choices.



Despite its name, swamp milkweed (*Asclepias incarnata*) does well in dry spots in Jim and Dorothy Borland's yard. The beautiful heads of rose and whitish flowers attract pollinators including Monarchs and other butterflies. It is worth using a hand lens to look at the flower structure. Photo by Jim Borland.

Design for Low Maintenance

Native plants can be used to accomplish just about any design style you're looking for using the elements and principles of good design: color, texture, balance, unity, variety, rhythm, line, form, scale. They can be used for anything from formal designs to, the more informal, naturalistic plantings that most people think of when they think native.

Choose species based on the soil, light and water conditions of your site and for the size, shape, texture, and color desired. For a more natural, successful and easily maintained landscape, group species that grow together naturally and have the same cultural requirements. This will improve plant health and appearance and will minimize maintenance.

South-facing areas with reflected heat will do best with dryland or desert plants. North-facing areas are cooler, moister and shadier, and will do better with forest-edge type plants. West-facing areas are more similar to south-facing, even if they only get a half day of sun, so this

is a good spot for dryland, prairie, or chaparral plants. The east-facing side is usually the most benign, and can grow a wide variety of plants. Plants that have higher water needs should be placed near the house for easier watering, or near downspouts or in low-lying areas where they will get extra water.

Be vigilant with weeding, especially in the first few years of planting so they don't take over the desirable vegetation. Plant thickly enough that the plants become a living mulch.

Suggested Reading

*Items available from the CoNPS Store at the time this booklet was published are marked with an asterisk. Others may be out-of-print and can be obtained from Amazon or the public library.

- Brune*, Rick. 1991. *The Prairie Garden*. Colorado Native Plant Society.
- Busco*, Janice and Nancy Morin. 2010. *Native Plants for High Elevation Western Gardens*. Fulcrum Publishing.
- Dorn*, Robert and Jane Dorn. 2007. *Growing Native Plants of the Rocky Mountain Area*. Lulu.
- Ellefson, Connie and David Winger. 2013. *Xeriscape Colorado*. Westcliffe.
- "Gardening with Native Plants." 2016. Colorado Native Plant Society. <https://conps.org/gardening-with-native-plants/>
- Hayes*, Rhona Fleming. 2015. *Pollinator Friendly Gardening: Gardening for Bees, Butterflies and Other Pollinators*. Voyageur Press.
- Nold, Robert. 2008. *High and Dry: Gardening with Cold-Hardy Dryland Plants*. Timber Press.
- "Plant Materials for Pollinators and Other Beneficial Insects in Eastern Utah and Western Colorado." http://efotg.sc.egov.usda.gov/references/public/CO/COPMTN_75_130711_comp.pdf
- Tallamy*, Douglas. 2009. *Bringing Nature Home*. Timber Press.
- Xerces Society*. 2011. *Attracting Native Pollinators*. Storey

Plant List

The plants for each of these guides were selected by experienced gardeners, with further input from members of the Colorado Native Plant Society. We aimed to choose plants that would be relatively easy to find in nurseries and seed catalogs. The scientific names are from Jennifer Ackerfield's *Flora of Colorado* (Britt Press, 2015); synonyms are in parentheses. For a listing of nurseries and seed companies that carry native plants, look for the "Native Plant Vendors" list on the Colorado Native Plant Society (CoNPS) website at <http://conps.org/gardening->

with-native-plants/ or consider attending the native plant sales held by CoNPS. When you go to a nursery, be sure to have the scientific name with you to make sure you are purchasing the correct species. Don't forget to ask for pesticide-free plants so pollinators won't be harmed.

Colorado Native Plant Society Mission Statement

The Colorado Native Plant Society is dedicated to furthering the knowledge, appreciation and conservation of native plants and habitats of Colorado through education, stewardship and advocacy.

Visit CoNPS website at <http://www.conps.org>



Key to Chart

The chart on the following pages contains a list of plants, listed alphabetically by scientific name (column 2 of the chart), that are native to Colorado and do well in Front Range gardens. The scientific names are from *Flora of Colorado* by Jennifer Ackerfield. An asterisk indicates that the plant occurs naturally in the southern-most part of the Front Range but will also do well in gardens in the Metro-Denver area. Not all plants illustrated in this guide are listed in the chart, but the scientific names are given so you can find them in a nursery. If you have questions, contact CoNPS or one of the other organizations that collaborated to produce this guide.

frt/birds,wl = fruit for birds and wildlife

hp = host plant

hp/hm = host plant for hawk moth

np/bee,btf = nectar and pollen for bees and butterflies

np/bee,btf,o = nectar and pollen for bees, butterflies, and other pollinators

n/hb = nectar for hummingbirds

n/hm = nectar for hawkmoths

p/bees = pollen for bees

ss/birds = seeds and shelter for birds

s/birds = seeds for birds

Bloom Time:

spring = SP

summer = S

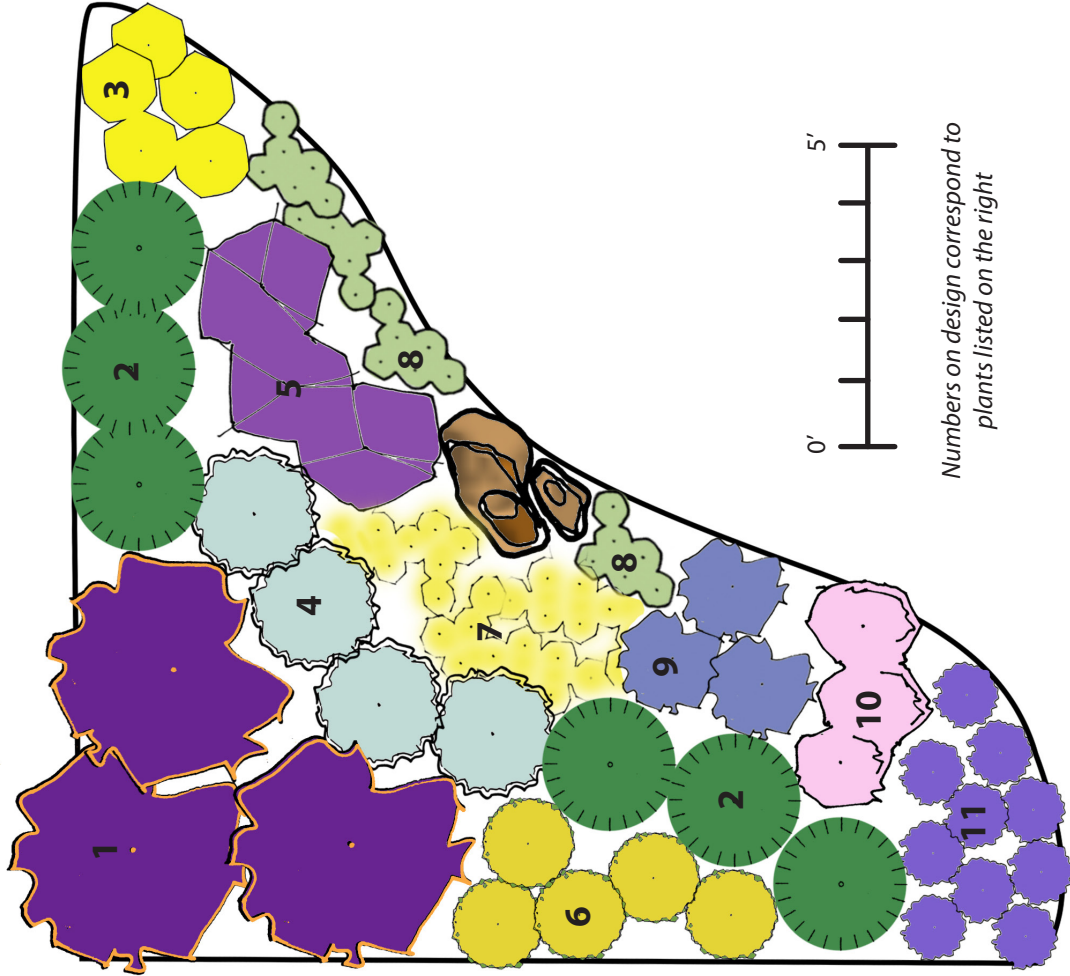
fall = F

Common Name	Scientific Name	Mature Size	Water	Exposure	Flower Color	Bloom Time	Wildlife Value
GROUNDCOVERS							
Pussytoes (perennial)	<i>Antennaria parvifolia</i>	2" x 6"	low-med	sun/part shade	cream/pink	SP-S	np/bee, btf
Wine Cups (perennial)	<i>Callirhoe involucrata</i>	4" x 10"	low-med	sun	magenta	SP-S	np/bee, btf
Spreading Daisy (perennial)	<i>Erigeron divergens</i>	2" x 16"	low	sun	white	SP-S	np/bee, btf
Sulphur Flower (perennial)	<i>Eriogonum umbellatum</i>	10" x 12"	low	sun/part shade	yellow	S	np/btfl
Creeping Mahonia (shrub)	<i>Berberis repens (Mahonia repens)</i>	12" x 12"	med.	sun/part shade	yellow	SP	np/bee, btf
Gro-Low Fragrant Sumac (shrub)	<i>Rhus trilobata 'Gro-Low'</i> (<i>R. aromatica</i> 'Gro-Low')	4' x 3'	low	sun	yellow	SP	ss/birds
PERENNIALS							
Common Yarrow	<i>Achillea millefolium (A.lanatum)</i>	18" x 18"	low-med	sun/part shade	white	S	np/bee, btf
Fringed Sage	<i>Artemisia frigida</i>	12" x 18"	low	sun	gray-green lvs.	S	p/bee; s/birds
Prairie Sage	<i>Artemisia ludoviciana</i>	18" x 18"	low	sun	gray-green lvs.	S	p/bee; s/birds
Showy Milkweed	<i>Asclepias speciosa</i>	30" x 12"	med	sun	pink	S	np/bee, btf; hp-monarch larva
Butterfly Milkweed*	<i>Asclepias tuberosa</i>	18" x 18"	low	sun	orange	S	np/bee, btf; o; hp-monarch larva
Chocolate Flower*	<i>Berlandiera lyrata</i>	18" x 18"	low	sun	yellow	S	np/bee, btf
Harebells	<i>Campanula rotundifolia</i>	12" x 6"	low	sun/part shade	blue	S	np/bee, btf
Purple Prairie Clover	<i>Dalea purpurea</i>	24" x 18"	low	sun	purple	S	np/bee, btf
Blanketflower	<i>Gaillardia aristata</i>	12" x 12"	medium	sun	yellow & red	S-F	np/bee, btf
Bush Sunflower	<i>Helianthus pumilus</i>	20" x 18"	low	sun	yellow	S-F	np/bee, btf; s/birds
Gayfeather	<i>Liatris punctata</i>	24" x 12"	low	sun	pink/purple	S-F	np/bee, btf
Blue Flax	<i>Linum lewisii</i>	18" x 12"	low	sun/part shade	blue	SP-S	np/bee, btf, o
Star Flower/Blazing-Star	<i>Mentzelia decapetala</i>	28" x 18"	low	sun	white	S	np/moths
Desert Four O'Clock*	<i>Mirabilis multiflora</i>	18" x 48"	low	sun/part shade	magenta	S	n/hm; n/hb
Bee Balm/Horsemint	<i>Monarda fistulosa</i>	24" x 24"	low-med	sun/part shade	pink/lav	S	np/bee, btf; n/hb
White-tufted Evening-Primrose	<i>Oenothera caespitosa</i>	6" x 12"	low	sun	white	S	n/hm; hp/hm
Howard's Evening-Primrose	<i>Oenothera howardii</i>	6" x 12"	low	sun	yellow	S	n/bee, moths
Side-bells Penstemon	<i>Penstemon secundiflorus</i>	20" x 12"	low	sun	lav/pink	SP-S	np/bee, btf; n/hb
Rocky Mountain Penstemon	<i>Penstemon strictus</i>	30" x 24"	low	sun/part shade	blue/purple	S	np/bee, btf; n/hb
Blue Mist Penstemon	<i>Penstemon virens</i>	12" x 12"	low	sun/part shade	blue/purple	SP-S	np/bee, btf; n/hb
Prairie Coneflower	<i>Ratibida columifera</i>	18" x 12"	low	sun	yellow	S-F	np/bee, btf; s/birds
Black-eyed Susan	<i>Rudbeckia hirta</i>	24" x 7"	low	sun/part shade	yellow	S	np/bee, btf; s/birds
Pitcher Sage	<i>Salvia azurea</i>	36" x 36"	low	sun/part shade	blue/purple	S	n/hb, btf
Canada Goldenrod	<i>Solidago canadensis</i>	30" x 18"	medium	sun	yellow	S	np/bee, btf
Scarlet Globemallow	<i>Sphaeralcea coccinea</i>	10" x 10"	low	sun	red/orange	S	np/bee

Common Name	Scientific Name	Mature Size	Water	Exposure	Flower Color	Bloom Time	Wildlife Value
CACTI & SUCCULENTS							
Yellow Nipple Cactus	<i>Coryphantha (Escobaria) missouriensis</i>	4" x 4"	low	sun	yellow	S	np/bee, fruit
Pink Nipple Cactus	<i>Coryphantha (E.) vivipara</i>	4" x 4"	low	sun	pink	S	np/bee, green fruit
Prickly Pear	<i>Opuntia macrohiza</i>	5" x 18"	low	sun	yellow/apricot	S	np/bee, red fruit
Plains Yucca	<i>Yucca glauca</i>	2' x 2'	low	sun	cream	S	hp- pronuba moth
GRASSES							
Indian Rice Grass	<i>Achnatherum hymenoides</i>	24" x 12"	low	sun	lacy tan inflr.	S	s/birds; hp-skipper
Side-Oats Grama	<i>Bouteloua curtipendula</i>	24" x 12"	low	sun	green	S	s/birds
Blue Grama	<i>Bouteloua gracilis</i>	18" x 12"	low	sun	green	S	s/birds
Little Bluestem	<i>Schizachyrium scoparium</i>	24" x 18"	low	sun	bluish foliage	S	s/birds; hp/skipper
SHRUBS							
Serviceberry	<i>Amelanchier alnifolia</i>	12' x 6'	low-med	sun/part shade	white	SP	frt/birds, wl
Silvery Leadplant	<i>Amorpha canescens</i>	4' x 3'	low	sun/part shade	purple	S	np/bee
Mountain Mahogany	<i>Cercocarpus montanus</i>	5' x 4'	low	sun/part shade	cream	SP	ss/birds, deer browse
Rubber Rabbitbrush	<i>Ericameria nauseosa (Chrysothamnus nauseosus)</i>	4' x 3'	low	sun	yellow	F	ss/birds; np/bee, btf, o
Apache Plume*	<i>Fallugia paradoxa</i>	5' x 5'	low	sun/part shade	white/pinkish	S	np/bee
Western Sandcherry	<i>Prunus besseyi</i>	4' x 4'	low	sun	white	SP	np/bee; frt/birds
Golden Currant	<i>Ribes aureum</i>	5' x 4'	medium	sun	yellow	SP	n/hb; frt/birds, wl
Wax Currant	<i>Ribes cereum</i>	4' x 3'	low	sun	pink/cream	SP	frt/birds, wl
Smooth Sumac	<i>Rhus glabra</i>	6' x 4'	low-med	sun/part shade	green/yellow	S	ss/birds
Skunkbush Sumac	<i>Rhus trilobata</i>	4' x 3'	low	sun	yellow	SP	ss/birds
Western Wild Rose	<i>Rosa woodsii</i>	3' x 4'	low-med	sun/part shade	pink	SP-S	np/bee; frt/birds
Snowberry	<i>Symphoricarpos occidentalis</i>	4' x 4'	low-med	sun/part shade	pink	S	np/bee, btf; frt/birds
TREES							
Rocky Mountain Maple	<i>Acer glabrum</i>	20' x 12'	med	sun	inconspicuous	SP	ss/birds
Rocky Mountain Juniper	<i>Juniperus scopulorum</i>	15' x 8'	low	sun	inconspicuous	S	ss/birds
Piñon Pine	<i>Pinus edulis</i>	25' x 15'	low	sun	inconspicuous	S	ss/birds
Ponderosa Pine	<i>Pinus ponderosa</i>	70' x 30'	low	sun	inconspicuous	S	ss/birds, wl
Gambel Oak	<i>Quercus gambelii</i>	25' x 12'	low	sun/part shade	inconspicuous		acorns/birds, wl; hp/CO hairstreak btf

Landscape Design #1

This landscape design, which is 15'x15' and approximately 22' diagonally, fits nicely into the corner of a yard. The leadplants serve as the tallest plant in the corner, contributing spikes of purple flowers when in bloom. The purple is repeated nearby by the purple prairie clover. The pale, fuzzy blue-grey leaves of prairie sage provide a soft muted color throughout the year as do the low, grey-green pussytoes at the front of the garden and the beautiful flowers of blue-mist penstemon that are abundant in spring and early summer. The native yarrow has flat-crowned clusters of small white flowers and ferny leaves with the white flower color echoed in the front by white-tufted evening primrose. The flowers of side-oats grama wave like small flags along the stem of the plant. The lovely blue flowers of flax bloom in the morning, shedding their petals like confetti on the ground by the afternoon. Garden design by Deryn Davidson.



1. Leadplant
Amorpha canescens



2. Sideoats Grama Grass
Bouteloua curtipendula



3. Chocolate Flower
Berlandiera lyrata



4. Prairie Sage
Artemisia ludoviciana



5. Purple Prairie Clover
Dalea purpurea



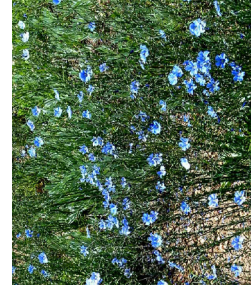
6. Common Yarrow
Achillea millefolium



7. Spreading Daisy
Erigeron divergens



8. Pussytoes
Antennaria spp.



9. Blue Flax
Linum lewisii



10. Evening-Primrose
Oenothera caespitosa



11. Blue Mist Penstemon
Penstemon virgatus

Landscape Design #2

This rectangular native garden is 15' x 5'. The rabbitbrush, pussytoes, and little bluestem give year round interest and winter structure. The flowers give a beautiful combination of summer and fall colors. Garden design by Deryn Davidson.



1. Goldenrod
Solidago spp.



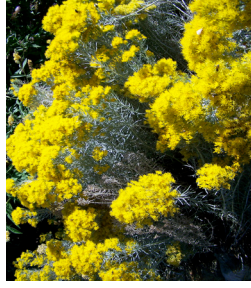
2. Little Bluestem
Schizachyrium scoparium



3. Globemallow
Sphaeralcea spp.



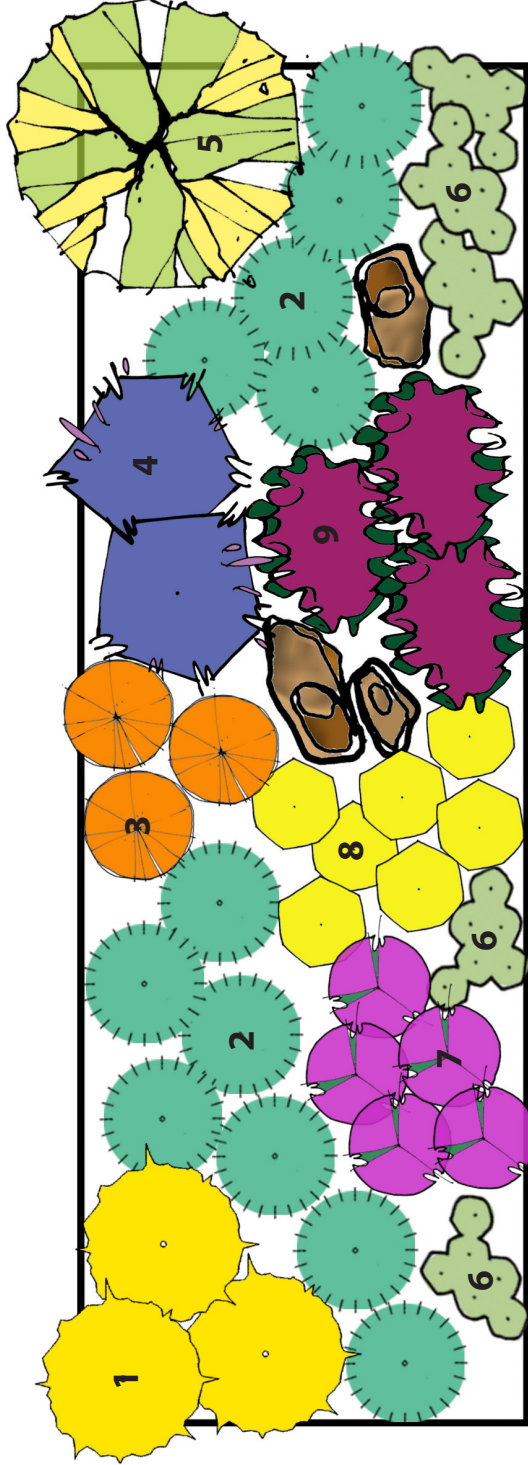
4. Rky. Mtn. Penstemon
Penstemon strictus.



5. Rabbitbrush
Ericameria nauseosa



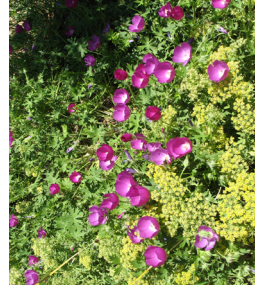
6. Pussytoes
Antennaria spp.



7. Gayfeather
Liatris punctata



8. Chocolate Flower
Berlandiera lyrata



9. Wine Cups
Callirhoe involucrata



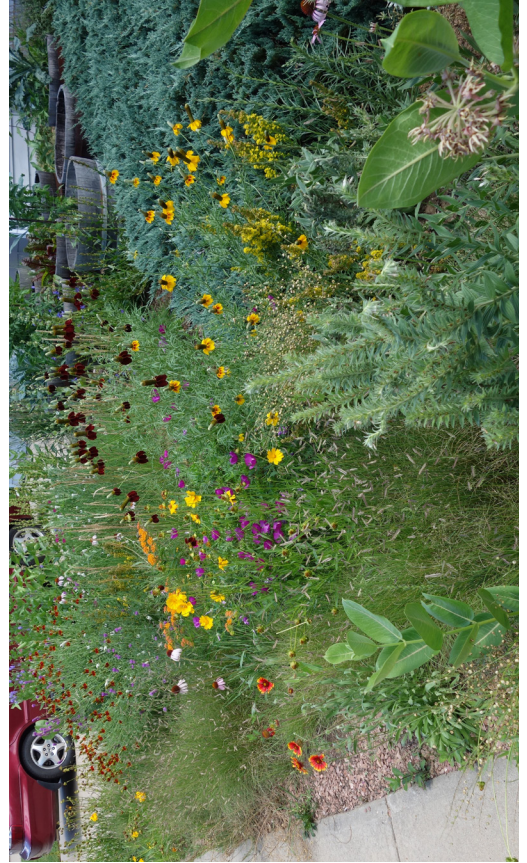
Numbers on design
correspond to plants listed

PHOTO GALLERY OF LANDSCAPE IDEAS

Jim and Dorothy Borland's Yard is Habitat Hero Certified. It is a beautiful example of the mix of colors, textures and habitat provided by Colorado's native plants. Photo by Jim Borland.



David Julie's yard in Boulder - All of the grasses and forbs in the foreground are native short-grass prairie plants. Photo by David Julie.



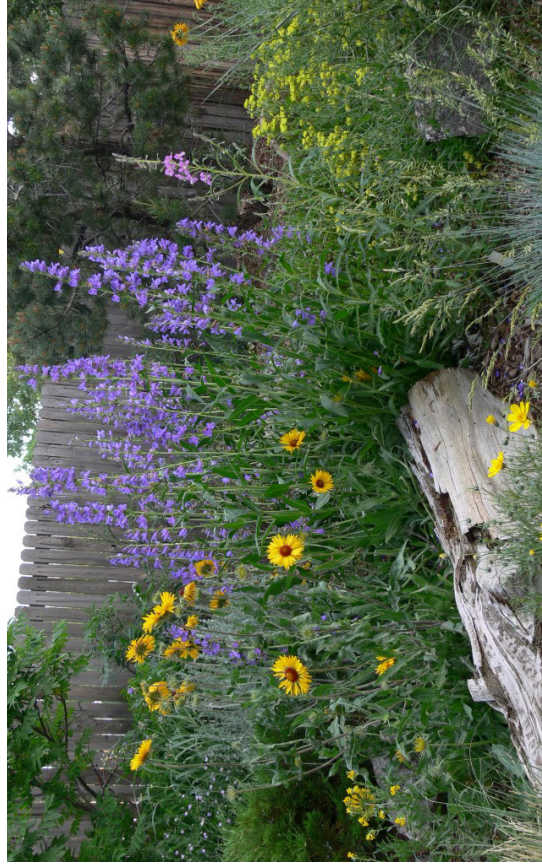
Carol English & Dave Elin's Rock Garden is nestled into the rocky foothills in Morrison. Carol and Dave have artistically carved a number of rock gardens and paths that show off native shrubs, perennials (especially penstemons), evening-primroses, and cacti. Rock terraces and a variety of hardscapes show off the plants. Photo by Dave Elin.



Dave Sutherland's front yard, is a drought-tolerant garden occupying a corner between the driveway and the street. Photo by Jan L Turner



Charlie and Jan Turner's native and xeriscape garden in Golden shows off the purple flowers of Rocky Mountain penstemon (*Penstemon strictus*) and blanket flower (*Gaillardia aristata*) with its bright yellow ray flowers and orange center of disk flowers. In front of the fence on the left side of the photo is a smooth sumac (*Rhus glabra*) that turns brilliant red in the autumn. A piñon pine can be seen behind the penstemons. To the right of the penstemon is a clump of sulphur flower (*Eriogonum umbellatum*). Photo by Jan L Turner.



The High Plains Environmental Center (HPEC) in Loveland has a number of native plant gardens. In the foreground are prairie sage (*Artemisia ludoviciana*), Hairy goldenaster (*Heterotheca villosa*), rabbitbrush (*Ericameria nauseosa*), tall evening primrose, and Rocky Mountain beebplant (*Peritoma serrulata*). Photo by Jim Tolstrup



Rick Brune's Prairie Garden in Lakewood is a riot of color. He created a prairie of native plants on his large lot and it is next to impossible to capture the beauty and size of his prairie garden in photos. Some plants take turns blooming and, when they do, they may bloom in profusion!



Wallflowers (*Erysimum asperum*), sticky gilia (*Aliciella pinnatifida*), orange paintbrush (*Castilleja integra*), and broadbeard penstemon (*Penstemon angustifolius*) are the most obvious plants in the photo. Photo by Rick Brune.



The Butterfly Pavilion's Discovery Garden has sunflowers (left) and rabbitbrush (right) for bees, butterflies, and other pollinators. Photo by Amy Yarger



Butterfly on rabbitbrush. Photo by Jan Turner



DENVER BOTANIC GARDENS



Colorado State University
EXTENSION

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2017

MUNICIPALITY OF _____
ORDINANCE NO. 2023-
IN MUNICIPAL _____, 2023

NATIVE PLANTING ORDINANCE

Sec. 1. TITLE.

This chapter shall be known and may be cited as “Municipality of _____ Landscape Ordinance Promoting the Use of Appropriate Native Vegetation.”

WHEREAS, Native Plants are localized, well adapted to the local soils and climate, tend to be more insect and disease resistant, and require less watering and fertilizing than non-native plants.

WHEREAS, local governments use native plant ordinances to improve the landscape principles that guide landscaping of all new development. Many communities find that the use of appropriate native vegetation in local landscaping helps achieve water conservation goals, preserves habitat in urban areas, greatly reduces landscaping maintenance costs, and protects property values.

WHEREAS, wildlife such as birds are more attracted to the Native Plants with which they co-evolved, and use such plants for food, cover, and rearing their young.

WHEREAS, Native Plants, having evolved in the climate, are extremely hardy and therefore have lower maintenance and replacement costs.

WHEREAS, in much the same way as saving an historic home, the use of Native Plants helps to preserve our local heritage.

WHEREAS, Native Plant usage helps restore the ecological balance we have lost through development and can help maintain, or even increase, property values.

Sec. 2. PURPOSE AND INTENT.

The purpose of these regulations is to establish minimum standards for the design, installation, and maintenance of landscaped areas that require the use of appropriate native vegetation and to promote the preservation of indigenous plant communities on site. The Municipality recognizes the significant benefits of establishing and protecting appropriate native vegetation and, therefore, the necessity to maximize the use of appropriate native vegetation in all public and private landscaped areas within the Municipality. It is the intent of this ordinance that these minimum landscape requirements be incorporated in order to promote the public health, safety, and welfare.

It is the intent of this ordinance that these minimum landscape requirements be incorporated in order to combat the climate crisis, species extinction, and global warming, and to promote the public health, safety, and welfare by: (a) Acknowledging that pollination is an essential ecological survival function, and without native plants and the pollinators that depend on them, the human race and all of earth's terrestrial ecosystems will not survive; (b) doing our part to reverse the massive decline in native pollinator populations from widespread use of pesticides in agribusiness, loss of habitat from development, and from our insistence on non-native plants in landscaping; (c) protecting and promoting genetically diverse and appropriate native vegetation; (d) promoting microhabitats in urban areas for the conservation of wildlife by establishing new, and maintaining and connecting existing, wildlife habitat; (e) creating larger, more connected plant populations and helping ensure the future of native plant species by increasing their ability to migrate in response to changes in climate; (f) promoting public health through the long term, widespread adoption of diverse native plantings; and (g) educating residents on the importance of native plant species and native pollinators to the ecosystem.

Sec. 3. DEFINITIONS.

- (a) Community Garden: a public or community use area intended for the purposes of gardening.
- (b) Community Play Area: public use areas, including school and athletic fields, composed of predominantly turfgrass intended for use for recreational purposes.
- (c) Endangered Plant: any plant species which is in danger of extinction throughout all or a significant part of its range.
- (d) Garden: a cultivated area dedicated to growing vegetables, fruits, annual and perennial plants, ornamental grasses, and ground cover in a well-defined location.
- (e) Invasive Plant: a plant reproducing outside its native range and outside cultivation that disrupts naturally occurring native plant communities by altering structure, composition, natural processes, or habitat quality.
- (f) Landscaped Area: the entire parcel less the building footprint, driveway, non-irrigated portions of parking lots, hardscapes such as decks and patios, and other non-porous areas. Water features are included in the calculation of landscaped areas.

(g) Landscaping: any combination of living plants and non-living landscape material such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials.

(h) Managed Natural Landscape: a planned, intentional, and maintained planting of native or non-native grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plantings. Meadow vegetation means grasses and flowering broad-leaf plants that are native to, or adapted to, and that are commonly found in meadow and prairie plant communities, not including noxious weeds.

(i) Native Plant: those species of plants occurring within a specific habitat or biogeographical region prior to European contact, according to best scientific and historical documentation. Those species of plants naturally occurring with a specific habitat.

(j) Pollinators: animals (primarily insect, but sometimes avian or mammalian) that fertilize plants, resulting in the formation of seeds and the fruit surrounding seeds, that humans and other animals rely on to produce nuts and fruits that are essential components of a healthy diet, and that the majority of flowering plant species found world-wide rely on to make the seeds that will become the next generation of plants.

(k) Rain Garden: a native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of storm water and accompanying pollutants from entering streams, rivers, and lakes.

(l) Remove: to transport a native plant from the premises on which it has been growing.

(m) Straight Species: a native plant that is not a cultivar or has not been bred to emphasize or minimize certain traits of the parent plant. Naturally occurring hybrids of native plants shall be considered as Straight Species for the purpose of this ordinance.

(n) Threatened Plant: any plant species that is likely to become an endangered plant within the foreseeable future throughout all or a significant portion of its range, including but not limited to species listed as threatened, at risk, or listed as likely to become endangered by any federal or applicable state or county agency.

(o) Tree: a self-supporting woody plant having a single trunk or a multi-trunk of lower branches, growing to a mature height of at least twelve (12) feet.

(p) Turfgrass: continuous plant coverage consisting of a grass species that is mowed to maintain an established height.

Sec. 4. APPLICABILITY.

This ordinance shall be a minimum standard and shall apply to all public and private buildings, developments, subdivisions, and land within the incorporated and unincorporated areas of the Municipality.

Sec. 5. LIMITS ON WEED CONTROL LAWS.

No regulation shall be enacted by the Municipality or any person or entity which prohibits or discourages the planting, maintenance, or protection of native plants or requires or incentivizes the removal or reduction of native vegetation, except when deemed necessary for public safety.

Sec. 6. INCENTIVE PROGRAM.

The Municipality may provide incentives to promote the use of native plants. Examples of such incentives include: 1) fast track permitting for building and landscape permits; 2) reduced permitting fees; 3) certified native landscape programs/marketing; 4) tax breaks/user fee reductions; 5) payment or cost-share programs for removal of invasive species.

Sec. 7. INVASIVE PLANTS FORBIDDEN.

After the effective date of this ordinance, the Municipality shall not use or install any invasive plant in any Municipal property. Landowners shall not allow any invasive plants on their property.

Sec. 8. PRIORITIZING STRAIGHT SPECIES.

The Municipality shall, to the extent possible and to the extent such plants are reasonably available, prioritize using and installing native plants that are straight species on any Municipal property.

Sec. 9. MANAGED NATURAL LANDSCAPE.

An owner, authorized agent, or authorized occupant of any privately owned lands or premises may, consistent with this subsection and all other applicable laws, statutes, rules, and ordinances, install and maintain a managed natural landscape.

Managed Natural Landscapes shall not include any plant identified by any applicable government agency as a noxious weed. Managed natural landscapes may include plants and grasses of any height and which have gone to seed. Managed natural landscapes shall not include plants that, due to location and/or manner of growth, constitute a hazard to the public.

Sec. 10. MANAGED LANDSCAPE SET BACK.

The managed landscape must be set back from property lines by at least _____ feet. The setback is not required where the defined landscape area abuts another similar private or public landscape area, a wetland, pond, lake, or stream or if a fully opaque fence at least four feet in height is installed along the lot line adjoining the planned landscape area.

The managed landscape may be planted up to the property line.

Sec. 11. CONFLICTING REGULATIONS REPEALED.

All rules and regulations that are in conflict with this article, in whole or in part, are hereby repealed to the extent that they are in conflict.

Sec. 12. SEVERABILITY.

If any portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate provision and shall not affect the validity of the remaining portions of the article.

Sec. 13. EFFECTIVE DATE.

This article shall take effect _____ days after it is enacted by the Municipality; provided, however, that this article shall not apply to any plantings carried out pursuant to existing contracts, invitations to bid, or designs completed prior to the effective date of this article.

Approved:

President

Council

Mayor

AN ORDINANCE OF THE TOWN OF PAONIA, COLORADO
REGARDING PROVISION OF WATER SERVICE TO OUT OF TOWN
PERSONS AND PROPERTIES
ORDINANCE NO. __
SERIES OF 2024

WHEREAS Colorado Revised Statutes §31-35-401 et. seq., allows for the provision of water service as a town utility which includes the provision of treated water to nonresidents and properties outside of its boundaries: and

WHEREAS the Board of Trustees of the Town of Paonia, Colorado has a duty under Colorado and Federal Law to ensure that the provision of potable water meets the laws, standards, rules and regulations established by the State and federal governments to ensure that the quality and quantity of water meets with all health, safety and welfare requirements; and

WHEREAS, this ordinance concerns the health, safety and welfare of the citizens of Paonia and of all water users that are nonresidents with regard to the Paonia potable water system as it is required by the CDPHE and with regards to water quantity specifically with regards to the limited supply of water available to the Town and the other residents and users of water within the Town’s system and was; and

WHEREASs the agreements which Town has entered into issuing water taps to certain nonresidents to purchase do not contain any contrary requirements and even if they did the laws of the state and federal government supersede and control; and

WHEREASs there are currently approximately 24 oral or written agreements for the provision of out-of-town water service which are not specific enough to inform such nonresidents of the requirements of having a consecutive water system or of other matters or requirements.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES IN THE TOWN OF PAONIA THAT:

1. Short Title. This ordinance shall be known as and may be cited as the Out-of-Town Water Service.
2. Definitions:

Out of Town Water Users: Those individual real property owners of land located outside of the boundaries of the town of Paonia and are subject to the laws of the county and the state only and do not pay property taxes to the town. Out of Town users can also be a subset of an out-of-town water supplier.

Out of Town Water Suppliers, means an association of persons (2 or more) owning real property that is formed and operates to receive water from the Town through a central point which is connected to the Town’s water main and such association is thereafter responsible to collect and distribute that water to its members at its expense. Such suppliers own and operate their water supply

system at the point of connection to the town separately from and without the supervision or oversight of the Town.

3. The provisions of this Ordinance shall constitute a contract between the Town and the out-of-town water user and out-of-town water supplier. Each such water user or supplier using Town water or allowing Town water to be used, shall be conclusively presumed to express his consent to be bound by all provisions of this Ordinance or amendments hereafter made and also to all rules and regulations which may be adopted by the Board of Trustees governing the use of water and to waive any and all objectives to the jurisdiction of the courts of the Town to enforce the provisions of this Ordinance or amendments thereto or any such rule or regulation governing water use.
4. Neither the Town Board of Trustees nor the Town administrator or staff may enter into any contract for the sale of the Town's potable and treated water (other than on a temporary interruptible daily basis) to out of town water users unless the Town establishes through a certified water engineering study that the water availability from the town's sources and including the capacity of treatment facilities and delivery systems that the needs of the Town residents and existing users will be met (using a standard of 150% of the highest calculated needs of town residents and out of Town users and existing contacts during a period of low aquifer yields). This restriction may be modified should the proposed out of town user have available and offer to the Town, water rights of a sufficient seniority, quantity, quality historic use and location that can be diverted into the Town water system to meet such additional uses. The acceptance of water rights shall be at the Town's sole discretion and the town shall use its water professionals to determine the historic use, available amounts, firm yield, location, ability to be changed to municipal uses in water court and other variables.
5. All existing and future out of town users and out of town suppliers shall comply with the following:

All connections outside the Town limits shall be restricted to the pipe size connection as in the agreement with the town or if none then a minimum of a four inch (4") pipe for multiple users and 1 " for sole user, provided, however, that the Board of Trustees may by resolution permit the use of a larger tap for industrial, commercial, school, and special purposes, for privately owned water lines serving several individual water users, and where necessary to overcome gravity problems or other specific purpose.

Each Out of town water supplier or user who is billed directly by the Town shall install at his own expense the necessary service pipes from the central entry point from the Town's water main to the curb box, and curb valve, and such additional service pipe as may be necessary to serve the premises owned by such property owner, All such water pipe shall be of copper pipes of "K" or greater thickness. All such service pipes shall be laid in a solid bed at a depth of not less than six feet (6') The Board of Trustees shall determine the brand or quality of curb box or curb valves which will be approved for use. No curb box or curb valve shall be installed until approved by the Town council. Curb boxes and

valves shall be kept by the property owner free from dirt, stones or other substances which would prevent access to, or impair the operation of, the curb valve.

A shut off valve shall be installed and maintained to allow the Town to discontinue, curtail or suspend water service to every water user and supplier in the event that there is nonpayment, noncompliance with requirements for the operation of said system or water losses or leaks that are not timely repaired or anything that threatens or endangers the Town water system in any way. This includes any order of the State CDPHE or DWR has issued to water supplier, water user or the Town for a violation or non-compliance with any law. rules or regulations.

The Supplier or user shall guarantee proper protection for the town's property placed on the Supplier or user's premises and shall permit access to it by authorized representatives of the town. In the event that any loss or damage to the property of the town or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the Supplier or user, his agents or employees, the cost of the necessary repairs or replacements shall be paid by the Supplier or user to the town; and any liability otherwise resulting shall be assumed by the Supplier or user. I. The amount of such loss or damage or the cost of repairs shall be added to the Supplier or user's bill; and if not paid, shall result in the disconnection of service by the town. Board of Trustees.

The town may restrict, suspend or curtail the use of its water by out-of-town users and suppliers for irrigation purposes at any time when the use of water for irrigation is stressing or may stress or cause deficiencies in the water available to service its Supplier or users in a timely and efficient manner. This includes but is not limited to the restriction of the amount of land that can be irrigated, the timing of irrigation uses, the types of irrigation methods and the amount of water that can be used.

6. Meter Regulations.

-The Town water department shall determine the brand and quality of meters which will be approved for use. All meters shall be a remote read meter to allow the town efficiency of reading. All meters which are read by the Town shall be installed in compliance with the Plumbing Code in a convenient, accessible location outside the building, and in a masonry or PVC vitrified clay meter box approved by the Town's.

-All individually billed out of town users shall have a meter installed on their service line that is operational at all times.

-It is highly recommended that all out-of-town water users taking water from the out-of-town water supplier have meters which are read by the supplier at regular intervals. This allows it to determine where leaks or excessive water uses are located.

-When two or more meters are to be installed on the same premises for different Supplier or users or in the case of a second meter, they shall be closely grouped and each clearly designated to which Supplier or user it applies.

-When a meter is nonfunctional, it shall be the duty of the water user or property owner, within ten (10) days, to notify the Town Clerk that repairs are needed. Such repairs will be done by the Town employees at suppliers or user's expense.

-When a meter is nonfunctional for more than ten days after notification, at the fault of the supplier or user, the Town Clerk may impose a monthly charge, until it is repaired, of 200% of the monthly average quantity of water used in a similar period as shown by the meter when it is in order. The charge as determined by the Town Clerk shall be conclusive.

-Should a meter located on private property, not be freely accessible to the Town, the Town shall send written notice to the water user describing the situation and directing that the water user takes steps, within ten (10) days, to correct said situation and make the water meter freely accessible. Should the required corrective action not be accomplished within the ten (10) day period, the Town may charge the user or supplier as if the meter is nonfunctional.

7. RESPONSIBILITY AND LIABILITY

-The town does not assume any requirement or responsibility to inspect the out-of-town users or suppliers' system or apparatus and will not be responsible, therefore.

-Under normal conditions, the Town will attempt to notify designated persons for suppliers before any anticipated interruption of service that is anticipated to continue for a period of 4 hours or more.

-The town reserves the right to refuse service unless the Supplier or user's lines or piping are installed in such manner as to prevent cross-connections or backflow.

-The town shall have the right at any time without notice to shut off the water in the Town mains, or any of them, for the purpose of making repairs, connections, extensions, or for other useful or necessary purposes, including the right to shut off water for a breach or violation or any provision of this ordinance. No water user or property owner shall be entitled to any damages or to have any portion of payment refunded for any interruption of water supply.

-The town shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the Supplier or user's premises. The town shall not be responsible for any damage done by or resulting from any defect in the piping, fixtures or appliances on the Supplier or user's premises. The town shall not be responsible for the negligence of third parties or forces beyond the control of the town resulting in any interruption of service. G. Under normal conditions, Supplier or users will be notified beforehand of any anticipated interruption of service.

8. SUPPLIER OR USER'S RESPONSIBILITY

-Town water shall not be used for any agricultural purposes including stock water or irrigation of land except for home or residential gardens of not more than .50 acres, 4 horses or other livestock kept for personal uses, home or individual greenhouses of not more than 1 acre in size and specifically town permitted commercial greenhouses.

-The supplier or user shall report to the town annually on the anniversary of the adoption of this ordinance the responsible contact person, number of units, residences, businesses, buildings etc. that it supplies water to and the amount of irrigated land in its service area that is irrigated with town water.

-The supplier shall furnish an operational, maintained private cut-off valve on the suppliers or user's side after the meter. The Town shall maintain a cut-off or shut off valve on the pipeline before the water is diverted into the suppliers or users' pipeline. No user or supplier shall under any circumstances operate, use damage or alter the Tons shut off valve.

-The Town shall have the right at any time without notice to shut off the water in the Town mains, or any of them, for the purpose of making repairs, connections, extensions, or for other useful or necessary purposes. The Town also reserves the right to shut off water for a breach or violation or any provision of this ordinance. No water user or property owner shall be entitled to any damages or to have any portion of payment refunded for any interruption of water supply.

-Every individual or separate property using water which originates from the town shall have an operational and maintained shut-off valve accessible outside the residence or building which shut off valve the water user and supplier authorizes Town personnel to access and shut off the water.

-The suppliers and users facilities and equipment including pipes and connections and apparatus shall be installed and maintained by the Supplier or user at the Supplier or user's expense in a safe and efficient manner and in accordance with the town's rules and regulations and in full compliance with the Laws of the State of Colorado and the Rules and regulations adopted thereto and enforced by the CDPHE.

-The Supplier or user shall guarantee proper protection for the town's property placed on the Supplier or user's premises and shall permit access to their equipment by authorized representatives of the town. In the event that any loss or damage to the property of the town or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the user, his agents or employees, the cost of the necessary repairs or replacements shall be paid by the Supplier or user to the town; and any liability otherwise resulting shall be assumed by the user. The amount of such loss or damage or the cost of repairs shall be added to the suppliers or users' bills; and if not paid, may result in the disconnection of service by the town.

-Each out-of-town water supplier or user if there is no supplier shall establish and provide to the Town the name, address, email and telephone number of one person who shall be the sole point of contact for the Town for all matters concerning the provision of water. Such person shall have the authority to bind the supplier's water system users.

-Systems including pipes, connections and the like on the Supplier or user's premises must be so arranged that the connection to the town is conveniently located with respect to the town's lines or mains. If the piping on the user's or supplier's premises is so arranged that the town is called upon to provide additional meters, each place of metering will be considered as a separate and individual account. Where a meter is placed on premises of a Supplier or user, a suitable place shall be provided by Supplier or user for placing such meter — unobstructed and accessible at all times to the town meter reader.

-If a supplier or user requests that a meter be relocated on their property, and the Town agrees to said relocation the user or supplier shall be responsible for paying all costs associated with such relocation.

-It shall be unlawful for any person to sell or give water from any supply or property connected to the Town water system or town fed water supplier or to allow a third party (occupant of other premises) to use water from his service. It shall be unlawful for any person to permit, suffer or allow water from the Town water works to run to waste upon his premises or premises under his charge or control; and it shall be unlawful for any person to interfere with, or in any way tamper with, any part of the Town water system, or to open or close any fireplug, stopcock, valve or other fixtures of the Town water system without specific lawful authority.

-Leaks in any facility equipment pipe appliance of any supplier or individual user system shall be repaired within ten days of notification that an excess amount of water is being diverted, used or wasted. If said leak is more than 2 gpm immediate turn off of the part of the system experiencing said leak is mandatory and the town is authorized to effectuate such turn off to prevent the continuous wasting of water.

9. In addition to a lien for unpaid water charges, the Town shall have the right to discontinue water service to such out of town supplier or user after proper notice is provided and/or to bring suit in any court of competent jurisdiction to enforce payment of all delinquent obligations to pay for water service. Additionally, it shall be a violation of this ordinance for any user, supplier or other person, including employees of the Town, to renew services to any premises, after termination because of default, until all delinquent charges and shut off and turn on fees are paid.

10. Users of Town water outside the Town Limits are granted the privilege to continue use of Town water, only so long as they comply with the provisions of this Ordinance and any amendments thereto, and any other requirement, law, rule or regulation.

11. If the Town Board shall determine that the available water supply of the Town is below the needs of the Town for water, fire and domestic purposes, or if the Board shall determine that

the use of Town water outside the Town Limits must be curtailed to protect the water supply to users within town limits the Town, the Board may limit and control water use or completely shut off the supply of water outside the Town Limits after notice is provided, unless such discontinuation of services has been agreed to in a written and executed agreement to the contrary.

12. No water user or property owner shall be entitled to any damages or to have any portion of payment refunded for any interruption of water supply.

13. Should there be any out of town water user or supplier taking more water than is normal for the number of residences and amount of square feet of irrigation in the irrigation season and it is suspected that there is a leak(s) in the water system or waste occurring the out of town supplier or user shall locate and repair said leak(s) within a 7 day period. Failure to fix said leak shall result in the curtailment of water to said supplier or user until the leak is repaired.

14. The Town retains the right to inspect all water users' and suppliers' water delivery systems and pipes at any time.

15. Regardless of whether regulated by the CDPHE every out-of-town user and supplier shall:

- establish and comply with Cross connection rules as they have been adopted and are amended from time to time.

- be responsible and conduct its own water quality testing for contaminants that are required of all small surface water systems.

- comply with any requirements imposed by state and federal agencies on the Town that the Town would not otherwise be required to perform if it did not supply water to the out-of-town supplier or user.

16. The town reserves the right to refuse service unless the out-of-town supplier is compliant with the Colorado Department of Public Health and Environment requirements for consecutive water systems. Should the out-of-town supplier be exempt from such consecutive system requirements the supplier is required and obligated to install, operate, repair and maintain any facilities that are required of the Town that is carried back to it by such private system. Such requirements include but are not limited to cross-connections or backflow devices, water quality testing.

17. The Town does not provide any assurances or warrant that its water is free from contaminants (including nitrates, nitrites, e-coli, lead, copper among others as defined by the CDPHE for public water system.

18. The town shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the Supplier or user's premises. The town shall not be responsible for any damage done by or resulting from any defect in the piping, fixtures or appliances on

the Supplier or user's premises. The town shall not be responsible for the negligence of third parties or forces beyond the control of the town resulting in any interruption of service.