



TOWN OF PAONIA
THURSDAY, AUGUST 01, 2019
SPECIAL TOWN BOARD MEETING AGENDA
5:00 PM

Roll Call

1. Roll Call

Approval of Agenda

2. Approval of Agenda

Unfinished Business

3. Ordinance 2019-TBD – Creation of the Highway 133 Corridor Overlay District & Highway 133 Corridor Development Submittal Requirements & Design Standards
4. Ordinance 2019-TBD – Formula Businesses
5. Ordinance 2019-TBD – Establishing Temporary Suspension of Processing Applications for Retail Superstores for A Period of Six Months

Adjournment

6. 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.



Roll Call

Summary:

Notes:

Possible Motions:
Motion by: _____ 2nd: _____ vote: _____

Vote:	Trustee Bachran:	Trustee Bear:	Trustee Bookout:
Trustee Budinger:	Trustee Hart:	Trustee Knutson:	Mayor Stewart:



Approval of Agenda

Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

Vote:	Trustee Bachran:	Trustee Bear:	Trustee Bookout:
Trustee Budinger:	Trustee Hart:	Trustee Knutson:	Mayor Stewart:

Agenda Item # CALL



Ordinance 2019-TBD – Creation of the Highway 133 Corridor Overlay District & Highway 133 Corridor Development Submittal Requirements & Design Standards

Summary:
Meeting opening -

Large empty rectangular area for notes or additional information.

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

**TOWN OF PAONIA
ORDINANCE NO. 2019- ____**

**AN EMERGENCY ORDINANCE OF THE TOWN OF PAONIA,
COLORADO, AMENDING THE TOWN CODE AND THE
OFFICIAL ZONING MAP TO PROVIDE FOR THE CREATION
OF THE HIGHWAY 133 CORRIDOR OVERLAY DISTRICT AND
CREATING HIGHWAY 133 CORRIDOR DEVELOPMENT
SUBMITTAL REQUIREMENTS AND DESIGN STANDARDS.**

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, the Board is conferred with the specific enumerated authority to exercise all power conferred upon or possessed by the Town and has the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper; and

WHEREAS, Chapter 16 of the Town Municipal Code regulates zoning within the Town’s municipal boundaries (the “Paonia Zoning Code”) with the stated purposes of the Paonia Zoning Code to, among other concerns:

“alleviate congestion in the streets...to promote health and general welfare...to prevent overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewage, schools, parks and other public requirements”; and

WHEREAS, the Paonia Zoning Code is “drawn with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate uses of land throughout the Town”; and

WHEREAS, The Board has the specific authority as set forth under C.R.S. 31-4-101 et. seq.; and

WHEREAS, the authority to zone has long been recognized as an aspect of a local government’s police powers to regulate activities in order to protect the public health, safety, morality and general welfare of its citizens; and

WHEREAS, the Town and Delta County entered into a January 24, 2011 Growth Management Agreement for the unincorporated area surrounding the Town of Paonia providing for the efficient management and administration of growth in the developing area around the Town of Paonia, including areas commonly referred to as the Highway 133 Corridor; and

WHEREAS, in 2008, the Town, in conjunction with residents of Delta County, initiated a project to gather information about business activities in and outside the municipal limits of the Town, focusing on both downtown Paonia and the Highway 133 Corridor. Thereafter, the Board appointed a 10-member Highway 133 Advisory Committee tasked with formulating a Highway 133 Corridor Master Plan; and

WHEREAS, the Highway 133 Advisory Committee, after holding 14 Advisory Committee meetings and meeting with area stakeholders, including the Paonia Chamber of Commerce, the Area Planning Commission, the Paonia Planning Commission and the Paonia Board of Trustees, completed its Highway 133 Corridor Master Plan; and

WHEREAS, the Highway 133 Corridor Master Plan has subsequently been adopted by both the Town and the Delta County Board of County Commissioners; and

WHEREAS, the Highway 133 Corridor Master Plan is consistent with both the Town of Paonia 1996 Comprehensive Plan (hereinafter the “Comprehensive Plan”), which remains the most recent master plan adopted by the Board, and the Delta County 1996 Master Plan, which was in place at the time the Highway 133 Corridor Master Plan was adopted; and

WHEREAS, the Town’s Comprehensive Plan includes the following goals:

- Maintain rural and agricultural settings of the community.
- Maintain small community closeness.
- Preservation of the character of downtown.
- Monitor growth and encourage controls on quality and character.
- Provide diversity of employment opportunities.
- Expand and diversify the tax base; and

WHEREAS, the Board hereby affirms its commitment to the Highway 133 Corridor Master Plan, committing to the community goals and vision as outlined therein; and

WHEREAS, ensuring development along the Highway 133 Corridor in accordance with the Highway 133 Corridor Master Plan is a legitimate interest of the Town of Paonia as it fosters a sense of community, furthers preservation and zoning goals and provides for long term economic sustainability for the residents of the community; and

WHEREAS, the Board wishes to amend the Official Zoning Map of the Town of Paonia to create a Highway 133 Corridor Overlay District; and

WHEREAS, amendments to the Official Zoning Map of the Town of Paonia are allowed so long as the amendments are not averse to the public health, safety and welfare, and the amendments are in substantial conformity with the Master Plan; and

WHEREAS, the Highway 133 Corridor Overlay District shall apply to those areas as designated in the Highway 133 Corridor Master Plan within the municipal boundaries of the Town; and

WHEREAS, to the extent areas designated in the Highway 133 Corridor Master Plan are outside the municipal boundaries of the Town, in the event such areas are subsequently annexed into the Town, the Highway 133 Corridor Overlay District shall be applied to those areas within the county that become annexed into the Town at a later date; and

WHEREAS, pursuant to Sec. 1-3-60 of the Town Municipal Code, the Town may adopt ordinances on an emergency basis for the immediate preservation of public peace, health and safety.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, 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. Creation of the Highway 133 Corridor Overlay District.

The 2010 Highway 133 Corridor Master Plan specifically outlines a vision for the Town and Delta County in evaluating land development away from the Town’s historic core to ensure protection of the Highway 133 West Elk Scenic Byway values. To incorporate the vision and the extensive planning of the Highway 133 Advisory Committee in developing the Highway 133 Corridor Master Plan, it is necessary to create the Highway 133 Corridor Overlay District applying to those areas within the municipal boundary of the Town, or which may be annexed into the municipal boundaries of the Town, as further detailed and defined as Areas A and B on the Town of Paonia Highway 133 Planning Areas Map, attached hereto and incorporated herein as Exhibit A.

Section 3. Amendment to the Official Zoning Map of the Town of Paonia.

The Town Board of Trustees, in accordance with Sec. 16-1-50, hereby designates the tracts of land identified in the attached Highway 133 Corridor Overlay District map, attached hereto and incorporated herein as Exhibit B, as tracts that are within the Highway 133 Corridor Overlay District, and the Board of Trustees hereby finds that the creation of the Highway 133 Corridor Overlay District and inclusion of these parcels within the Highway 133 Corridor Overlay District advances the public health, safety and welfare of the Town and its citizens, and is in substantial conformity with the Town’s Comprehensive Plan and the Highway 133 Corridor Master Plan. To the extent the tracts of land identified in the Highway 133 Corridor Overlay District map exist outside the municipal boundary of the Town, they shall only be subject to the Highway 133 Corridor Overlay District upon annexation into the Town of Paonia.

The Highway 133 Corridor Overlay District is hereby incorporated in the Official Zoning Map and shall be maintained by the Town of Paonia. Further, this Ordinance shall create an amendment to the Official Zoning Map of the Town of Paonia, designating those parcels as

identified in the attached Highway 133 Corridor Overlay District map as included in the Highway 133 Corridor Overlay District.

Section 4. Amendment to the Town Code.

Sec. 16-1-110 of the Town of Paonia Municipal Code is amended to add a definition for the Highway 133 Corridor Overlay District:

The Highway 133 Corridor Overlay District is defined as those areas within the Highway 133 Corridor Overlay District Map, and development within the Highway 133 Corridor Overlay District shall be in substantial conformity with the Highway 133 Corridor Master Plan and the review criteria set forth in accordance with Section 16-1-130 (7).

Section 5. Additions to the Town Code.

Sec. 16-2-130 Highway 133 Corridor Overlay District is added to the Town of Paonia Municipal Code as follows:

Sec. 16-2-130 Highway 133 Corridor Overlay District.

It is the purpose and intent of the Highway 133 Corridor Overlay District is to promote the public health, safety and welfare of the citizens of the Town of Paonia. The Town shall use the Highway 133 Corridor Overlay District to: implement goals, policies and action items in the Town’s Comprehensive Plan and Highway 133 Corridor Master Plan; preserve, improve and protect the Highway 133 Corridor as a Town amenity; regulate buildings and structures to protect and support existing agricultural uses, to support the sustainability of those activities and to protect the open scenic character of the West Elk Scenic Byway; utilize design and development techniques that avoid, minimize and mitigate impacts to the natural environment; and ensure aesthetic and ecological qualities of the Highway 133 Corridor continue to be a community asset.

Sec. 16-3-130

(1) Applicability. The provisions and regulations of this Sec. 16-3-130 shall apply to all land within the Town of Paonia Official Zoning Map included as part of the Highway 133 Corridor and as defined within these regulations. In addition, the provisions of this Sec 16-3-130 shall apply to the applicable requirements of the underlying zoning district and other regulations of the Town. When the standards of this Highway 133 Corridor Overlay District conflict with any other provision of the Paonia Municipal Code, the more stringent limitation or requirement shall apply.

(2) Adoption of the Highway 133 Corridor Master Plan. Within the Highway 133 Corridor Overlay District, all land use activity, development, redevelopment, renovation, and/or change in use requiring a building, development, or other land use permit shall be undertaken

and reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(3) **Uses by Right.** Within the Highway 133 Corridor Overlay District, uses permitted by the underlying zoning district are allowed unless specifically prohibited, provided that the use generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(4) **Development.** Development within the Highway 133 Corridor Overlay District shall be permitted, provided that the development generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(5) **Special Review.** All Special Reviews may be permitted upon approval in accordance with Sec. 16-4-10 of the Code, and provided that said Special Review generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(6) **Submittal Requirements.** For development with the Highway 133 Corridor Overlay District, the following information must be completed and included in all applications for development or land use activity:

(a) A development plan showing compliance with the Goals and Policies as further enumerated in the Highway 133 Corridor Master Plan.

(b) For those areas within Area A of the Highway 133 Corridor Master Plan Map, an applicant shall meet the design standards as detailed in the Highway 133 Corridor Master Plan.

(7) **Review Criteria.** The criteria for review and performance standards are as follows:

(a) Compliance of the application with this Code in general.

(b) The compatibility of the proposed use and the site plan with the character of the surrounding area.

(c) The desirability and need for the proposed use.

(d) Consideration and mitigation of the potential for adverse environmental influences that might result from the proposed use.

(e) Compatibility of the proposed use and site plan with the policies and guidelines of the Comprehensive Plan.

(f) Compatibility of the proposed use and site plan with the Goals and Policies of the Highway 133 Corridor Master Plan.

(8) Exempt Uses and Activities. The following uses and activities are exempt from these regulations, including the Highway 133 Corridor Master Plan, provided plans and specifications are approved by the Town, and all local, state and federal permitting is approved:

(a) Public improvements essential for public health and safety, installed by and/or approved by the Town, including but not limited to public utility buildings, facilities, systems and accessory structures; and

(b) Public improvements such as pedestrian and automobile bridges, trails and recreational amenities installed by and/or approved by the Town; and

(c) Irrigation, drainage, flood control or water diversion structures installed by and/or approved by the Town; and

(d) Bank stabilization, river restoration and planting of native vegetation installed by and/or approved by the Town.

Section 6. 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 7. Repeal of Prior Ordinances.

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

Section 8. 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 9. Effective Date.

This Ordinance shall take effect thirty days after passage.

Section 10. Public Notice, Hearing and Review by the Planning Commission.

A public hearing on this Ordinance was held on the ____ day of _____, 2019, in the Town Hall of the Town of Paonia _____, with the provisions of Sec. 16-6-10 of the Town Code being met. As required by the Code, this matter was referred to the Planning Commission on July 31, 2019.

INTRODUCED, READ AND REFERRED to public hearing before the Board of Trustees for the Town of Paonia, Colorado, on the __ day of _____, 2019.

TOWN OF PAONIA

By: _____
CHARLES STEWART, Mayor

ATTEST:

J. CORINNE FERGUSON, Town Clerk

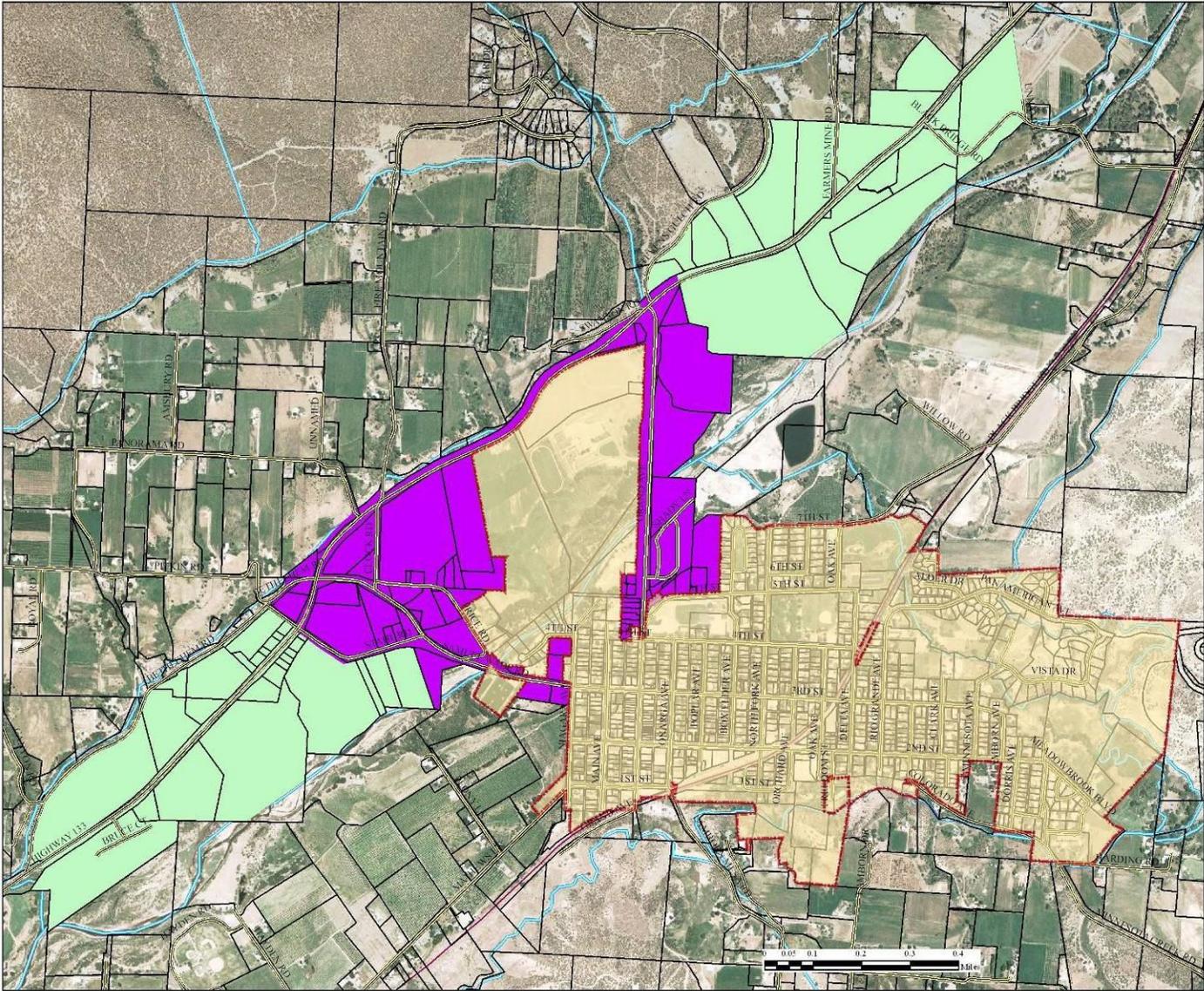
HEARD AND FINALLY ADOPTED by the Town of Paonia Board of Trustees for the Town of Paonia, Colorado, on the __ day of _____, 2019.

TOWN OF PAONIA

By: _____
CHARLES STEWART, Mayor

ATTEST:

J. CORINNE FERGUSON, Town Clerk



Town of Paonia Highway 133 Planning Areas A & B

Legend

- Paonia Municipal Boundary
- Delta_roads
- Area A
- Area B
- Delta_RR



Warren Group Consulting LLC
1001 South 152 St
Gardnerville, NV 89423
775-263-7172
September 14, 2018

Agenda Item # CALL

Ordinance 2019-TBD – Formula Businesses



Summary:
Meeting opening -

A large, empty rectangular box intended for the main summary of the meeting item.

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

A wide, empty rectangular box at the bottom of the agenda item section, likely for a final note or signature line.

**TOWN OF PAONIA
ORDINANCE NO. 2019- ____**

**AN EMERGENCY ORDINANCE OF THE TOWN OF
PAONIA, COLORADO, AMENDING AND
SUPPLEMENTING CHAPTER 16 OF THE TOWN OF
PAONIA MUNICIPAL CODE REGARDING FORMULA
BUSINESSES.**

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, the Board is conferred with the specific enumerated authority to exercise all power conferred upon or possessed by the Town and has the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper; and

WHEREAS, the Paonia Zoning Code is “drawn with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate uses of land throughout the Town”; and

WHEREAS, The Board has the specific authority as set forth under C.R.S. 31-4-101 et. seq.; and

WHEREAS, the authority to zone has long been recognized as an aspect of a local government’s police powers to regulate activities in order to protect the public health, safety, morality and general welfare of its citizens; and

WHEREAS, pursuant to C.R.S. § 31-23-301, the Town has the power to regulate buildings and other structures for the purposes of promoting health, safety and the general welfare of the community; and

WHEREAS, pursuant to C.R.S. § 29-20-104(1)(g), the Town has the power to regulate the use of land on the basis of the impact thereof on the community or surrounding areas; 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 to add this provision to the Municipal Code; and

WHEREAS, in an effort to ensure the Highway 133 Corridor Master Plan is consistent and complies with the Town of Paonia’s 1996 Comprehensive Plan, the Board believes it is necessary to protect the Town’s historic downtown core, viewed as the civic, social and business of the community; and

WHEREAS, pursuant to Sec. 1-3-60 of the Town Municipal Code, the Town may adopt ordinances on an emergency basis for the immediate preservation of public peace, health and safety.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, 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. Amendment to the Town Code.

Sec. 16-1-100 of the Town of Paonia Municipal Code is amended to add a definition for formula businesses:

Formula business means a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademarks, logos, servicemarks, symbols, decor, architecture, layout, uniforms, or similar standardized features and which causes it to be substantially identical to more than five other businesses regardless of ownership or location. Formula businesses can include, but are not limited to restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B.

Sec. 16-3-70 of the Town of Paonia Municipal Code is amended to reflect the zone districts where formula businesses are permitted by right, permitted by special review or prohibited:

USE	C-1	C-2	I-1	I-2
Formula Businesses	X	S	S	S

P = Permitted by Right
S = Permitted by Special Review
X = Prohibited

Section 3. Additions to the Town Code.

Sec. 16-3-140 Formula Business is added to the Town of Paonia Municipal Code as follows:

Sec. 16-3-140 Formula Business

(1) **Intent.** The purpose of these formula business requirements is to maintain and protect Paonia’s historic downtown core as the civic, social and business hub of the

community, ensure the vitality and diversity of the Town's commercial districts and enhance the quality of life of residents and visitors.

(2) **Applicability.** These regulations shall apply to formula businesses as defined in Sec. 16-3-100 of the Code.

(3) **Related Definitions.** For purposes of this section, the following definitions apply:

(a) *Color scheme* means the selection of colors used throughout the business, such as on the walls, furnishings, permanent fixtures or on the building façade.

(b) *Décor* means the interior design and furnishings that may include style of furnishings, shelving, display shelving/racks, wall coverings or other permanent fixtures.

(c) *Façade* means the principal exterior face or front of a building, including awnings, overhangs, and porte-cocheres that are oriented towards a street, alley or open space.

(d) *Servicemark* means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service of one party from those of others.

■ (e) *Signage* means a sign as detailed Sec. 18-6-10.

(f) *Standardized array of merchandize* means fifty percent (50%) or more of the in-stock merchandise is from a single manufacturer or distributor bearing uniform markings.

(g) *Standardized array of services* means a substantially similar set of services or food and beverage menus that are priced, prepared and performed in a consistent manner.

(h) *Trademark* means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs legally registered or established by use that distinguishes the source of the product of one party from those of others.

(i) *Uniform apparel* means standardized items of clothing, including but not limited to standardized aprons, pants, shirts, vests, smocks or dresses, and hat and pins (other than name tags) with standardized colors and fabrics.

(4) **Exemptions.** The following formula businesses are exempt from these formula business requirements:

(a) Formula businesses in operation prior to the effective date of these regulations.

(b) Construction work on a pre-existing, approved or exempt formula business that is required to comply with fire and/or life safety standards.

(c) Disability access improvements to a pre-existing, approved or exempt formula business.

(5) Formula Business Location Requirements. Formula retail businesses may be permitted as a Special Review in in the C-2, I-1 or I-2 zone district.

Formula businesses that are legally in existence as of the effective date of this Ordinance may remain in their current location as a non-conforming use. The same or substantially similar type of use may be transferrable upon sale or transfer of the commercial space or ownership of the business and/or building.

Formula businesses that are legally in existence as of the effective date of this Ordinance may be renovated and/or expanded up to fifteen percent (15%) of the existing gross floor area or a maximum of one thousand five hundred (1,500) square feet, whichever is less.

(6) Compliance with the Code. Formula business shall comply with all applicable standards of the underlying zone district and the applicable regulations of the Town Code.

(7) Formula Business Additional Criteria. No conditional use permit for a formula business shall be approved unless the following criteria are met:

(a) The formula business complements existing businesses and promotes quality, diversity and variety to assure a balanced mix of commercial uses and range of local, regional and national goods and services for residents and visitors.

(b) The formula business has submitted plans, drawings, renderings, visual simulations or other examples that illustrate how it will be consistent with the historic nature of the Town of Paonia.

(c) The formula business does not include any drive-through facilities.

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 days after passage.

Section 8. Public Notice, Hearing and Review by the Planning Commission.

A public hearing on this Ordinance was held on the ____ day of _____, 2019, in the Town Hall of the Town of Paonia _____, with the provisions of Sec. 16-6-10 of the Town Code being met. As required by the Code, this matter was referred to the Planning Commission on July 31, 2019.

INTRODUCED, READ AND REFERRED to public hearing before the Board of Trustees for the Town of Paonia, Colorado, on the ____ day of _____, 2019.

TOWN OF PAONIA

By: _____
CHARLES STEWART, Mayor

ATTEST:

J. CORINNE FERGUSON, Town Clerk

HEARD AND FINALLY ADOPTED by the Town of Paonia Board of Trustees for the Town of Paonia, Colorado, on the ____ day of _____, 2019.

TOWN OF PAONIA

By: _____
CHARLES STEWART, Mayor

ATTEST:

J. CORINNE FERGUSON, Town Clerk

Agenda Item # CALL



Ordinance 2019-TBD – Establishing Temporary Suspension of Processing Applications for Retail Superstores for A Period of Six Months

Summary:
Meeting opening -

Large empty rectangular area for meeting summary notes.

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

Empty rectangular area at the bottom of the agenda item section.

**TOWN OF PAONIA
ORDINANCE NO. 2019- ____**

**ESTABLISHING A TEMPORARY SUSPENSION OF THE PROCESSING OF
APPLICATIONS FOR RETAIL “SUPERSTORES” WITHIN THE TOWN
FOR A PERIOD OF SIX MONTHS**

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, the Town, pursuant to its enumerated authority, has adopted certain policies, plans, ordinances and resolutions pertaining to the development of property within the Town, including the Town of Paonia 1996 Comprehensive Plan, the Highway 133 Corridor Master Plan, and the Town’s 2011 Growth Management Agreement with Delta County; and

WHEREAS, the Town’s Comprehensive Plan includes the following goals:

- Maintain rural and agricultural settings of the community.
- Maintain small community closeness.
- Preservation of the character of downtown.
- Monitor growth and encourage controls on quality and character.
- Provide diversity of employment opportunities.
- Expand and diversify the tax base; and

WHEREAS, the Town has recently received applications and/or informal proposals from various large scale retail stores to be located within the Town, which stores present unique land use planning concerns by reason of the bulk, size and scale of such stores, especially with regard to the aesthetic and transportation impacts of the same; and

WHEREAS, the Town adopted a Highway 133 Corridor Master Plan in 2010 to address large scale development along Highway 133, for certain areas that may become annexed into the County; and

WHEREAS, the Town has never codified the Highway 133 Corridor Master Plan or incorporated its findings into its zoning code; and

WHEREAS, considerable study is needed to determine the appropriate location for large scale retail stores, such uses and the kinds of criteria that should be adopted to regulate the design of same, as well as the kind of infrastructure requirements that may be necessary to accommodate such uses; and

WHEREAS, pursuant to C.R.S. § 31-23-301, the Town has the power to regulate buildings and other structures for the purposes of promoting the health, safety and the general welfare of the community; 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 to add this provision to the Municipal Code; and

WHEREAS, pursuant to Sec. 1-3-60 of the Town Municipal Code, the Town may adopt ordinances on an emergency basis for the immediate preservation of public peace, health and safety.

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

Section 1. The foregoing Recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Board of Trustees.

(a) That the Town has recently undertaken the development of a Highway 133 Corridor Overlay District; and

(b) That the Town has recently undertaken the implementation of an Ordinance for the regulation of formula businesses; and

(c) The Town wishes to conduct the appropriate public process for review, comment and public hearing on its Highway 133 Corridor Overlay District and Ordinance regarding the regulation of formula businesses; and

(d) To allow for the Town to conduct a thoughtful review of development within the Highway 133 Corridor, the Town wishes to place a ninety-day moratorium on commercial development along Highway 133 in those areas within the Town, or which may become incorporated into the Town through annexation, as further depicted on Exhibit A, attached hereto and incorporated herein; and

(e) This moratorium shall not apply to residential development within the area depicted on Exhibit A; and

(f) That study is needed in order to determine the appropriate location for commercial buildings in excess of 10,000 square feet, the kind of design criteria which should be used to mitigate the visual impacts of the same, and the kind of infrastructure requirements which should be imposed to offset the parking and traffic impacts of such developments; and

(g) That the development of large-scale commercial buildings in the absence of appropriate regulatory guidelines, along Highway 133, may have an irreversible negative impact upon the Town; and

(h) That it is necessary in the public interest to delay, for a reasonable period of time, the processing of any applications for commercial development along the Highway 133

Corridor, as further depicted on Exhibit A, to ensure that the design, development and location of the same are consistent with the long-term planning objectives of the Town.

Section 2. That, as of the effective date of this Ordinance, no commercial development plans, preliminary planned unit development applications, applications for site plan review or building permits for commercial buildings in excess of 10,000 square feet, within the Highway 133 Corridor will be processed by Town staff or reviewed by the Town’s Planning Commission.

Section 3. That staff, in conjunction with the Town’s Planning Commission shall study the location for commercial buildings in excess of 10,000 square feet, the kind of design criteria which should be used to mitigate the visual impacts of the same, and the kind of infrastructure requirements which should be imposed to offset the parking and traffic impacts of such developments within the Highway 133 Corridor area.

Section 4. That the provisions of the Ordinance shall not affect the processing of applications or the issuance of building permits for uses permitted under planned unit developments or site plan reviews that have received preliminary or final approval by the Town on or before the effective date of this Ordinance.

Section 5. That the provisions of this Ordinance are temporary in nature and are intended to be replaced by subsequent legislative enactment. The temporary suspension of the processing of applications for large retail and merchandising establishments within the Town as specified in this Ordinance shall terminate as of October 30, 2019.

A public hearing on this Ordinance was held on the 1st day of August 2019, in the Town Hall of the Town of Paonia, with the provisions of Sec. 16-6-10 of the Town Code being met. As required by the Code, this matter was reviewed by the Planning Commission on July 31, 2019.

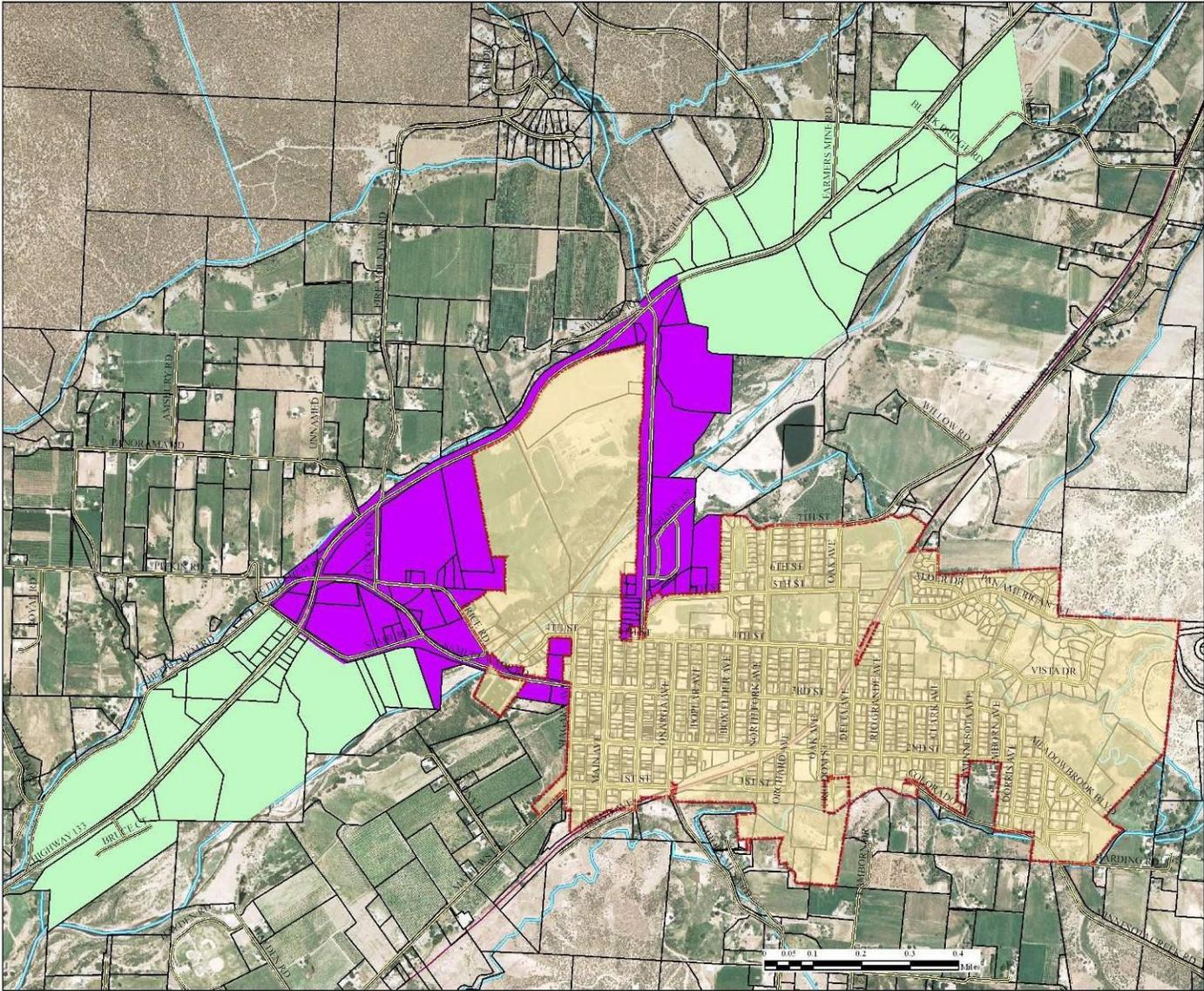
INTRODUCED, READ AND FINALLY ADOPTED by the Board of Trustees of the Town of Paonia, Colorado, on the 1st day of August 2019.

TOWN OF PAONIA, COLORADO, A MUNICIPAL CORPORATION

By: _____
CHARLES STEWART, Mayor

ATTEST:

J. CORINNE FERGUSON, Town Clerk



Town of Paonia Highway 133 Planning Areas A & B

Legend

- Paonia Municipal Boundary
- Delta_roads
- Area A
- Area B
- Delta_RR



Warren Group Consulting LLC
0101 South 152 St
Gardnerville, NV 89423
775-263-7172
September 14, 2018



Adjournment

Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

Vote:	Trustee Bachran:	Trustee Bear:	Trustee Bookout:
Trustee Budinger:	Trustee Hart:	Trustee Knutson:	Mayor Stewart: