

Title 8

HEALTH AND SAFETY

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Chapter 8.04

EMERGENCY TELEPHONE SERVICE

Sections:

8.04.010 Agreement authorization.

8.04.020 Charges authorized-- Amount.

8.04.020 Charges--Collection authorization.

8.04.010 Agreement authorization.

The mayor is authorized to sign the intergovernmental agreement attached to the ordinance codified in this chapter and found on file in the office of the city clerk creating an emergency telephone service authority in order to establish and maintain an emergency telephone service system in the county.

(Ord. 1-1990 § 1, 1990)

8.04.020 Charges authorized-- Amount.

There is established and authorized an emergency telephone charge as provided by CRS 29-11-102 (2) in an amount not to exceed seventy cents per month for those portions of the service area for which emergency telephone service is to be provided. Upon recommendation of the emergency telephone service authority, the board of trustees may, by resolution, raise or lower the emergency telephone charge, but in no event shall such charge exceed seventy cents per month.

(Ord. 7-1995 § 8, 1995)

8.04.020 Charges--Collection authorization.

Telephone service suppliers providing telephone service in the town are authorized to collect the emergency telephone charge imposed by this chapter in accordance with CRS, 29-11-101 et seq. 1973, as amended.

(Ord. 1-1990 § 3, 1990)

Chapter 8.08

GARBAGE COLLECTION AND DISPOSAL

Sections:

8.08.010 Unlawful activities.

8.08.020 Definitions.

8.08.030 Violation--Penalty.

8.08.010 Unlawful activities.

The use of any trash and garbage collection facility or service with the town, either privately or publicly owned, by any person without authorization from the owner of such facility is declared to be a nuisance and the following conduct is prohibited:

- A. It is unlawful for any person to deposit any trash or garbage upon any public street, alley or other public place within the town, unless such trash or garbage is deposited within a trash and garbage collection facility owned by the person or for which the person has authorization for such use by the owner.
- B. It is unlawful for any person to place trash or garbage for collection in any trash and garbage facility unless the person has authority to do so from the owner of such facility.
- C. It is unlawful for any person who is not an employee of the town, or otherwise expressly authorized by an officer or employee of the town to place trash or garbage for collection in any trash and garbage facility; excepting only the deposit of trash and garbage within such facilities designated for public use within any park, recreation facility or other public place within the town and provided that such trash or garbage has been generated from lawful activities upon such public park, recreation facility or other public place.
- D. It is unlawful for any person to molest, remove, handle or otherwise disturb the trash containers or contents thereof of another person without authorization from such person.

(Ord. 4-1993 § 1, 1993)

8.08.020 Definitions.

The terms **trash and garbage collection facility** shall include trash collection barrels, dumpsters and other receptacles for the disposal of trash and garbage, whether privately or publicly owned.

(Ord. 4-1993 § 2, 1993)

8.08.030 Violation--Penalty.

Any person who is convicted of violating the provisions of this chapter shall be subject to the provisions of Chapter 1.16.020 of the code of the Town of Cedaredge, Colorado.

(Ord. 2010-21, 6-17-2010) (Ord. 4-1993 § 3, 1993)

Chapter 8.12

LITTER AND JUNK

Sections:

8.12.010 Definitions.

8.12.020 Littering prohibited.

8.12.030 Affirmative defense provisions regarding littering.

8.12.040 Dumping from motor vehicles--Responsible party.

8.12.050 Storage of litter prohibited.

8.12.060 Litter storage declared nuisance.

8.12.070 Keeping of junk prohibited.

8.12.080 Junk storage declared nuisance.

8.12.090 Exceptions.

8.12.100 Violations-Penalty.

8.12.010 Definitions.

- A. For the purpose of this chapter, "litter" means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid of every form, size, kind and description.
- B. For the purpose of this chapter, "junk" includes, but is not limited to, old or scrap iron, steel, copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, and other old or scrap ferrous or nonferrous material; or junked, dismantled, wrecked, or inoperable automobiles, appliances, machinery, furniture, or parts thereof; used or discarded building or construction materials; and any and all other items commonly known as junk.
- C. An item may be both "junk" and "litter" as defined in this chapter.
- D. "Town" shall refer to the town of Cedaredge, Colorado.

(Ord. 2010-21, 6-17-2010) (Ord. 1-1984 Art. 1 § 4, 1984)

8.12.020 Littering prohibited.

It is unlawful for any person to deposit, throw, or leave any litter or junk on any public or private property or in any waters.

(Ord. 1-1984 Art. 1 § 1.1.1, 1984)

8.12.030 Affirmative defense provisions regarding littering.

It shall be an affirmative defense that:

- A. The litter or junk is placed in a receptacle or container installed on such property for such purpose which such person is authorized to use; or
- B. Such person is the owner or tenant in lawful possession of such property, or he has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

(Ord. 1-1984 Art. 1 § 1.1.2, 1984)

8.12.040 Dumping from motor vehicles--Responsible party.

Whenever litter or junk is thrown, deposited, dropped or dumped from any motor vehicle in violation of this chapter, the operator of said motor vehicle is presumed to have caused or permitted the litter or junk to be so thrown, deposited, dropped or dumped therefrom.

(Ord. 1-1984 Art. 1 § 1.1.3, 1984)

8.12.050 Storage of litter prohibited.

It is unlawful for any person to keep, store, or deposit or allow to be kept, stored or deposited any litter upon his own property or upon property of which he is a tenant in lawful possession, except within a trash can or container which has a tight fitting lid, or a trash bag placed temporarily upon the property for pickup by a trash hauling service, or unless the litter is totally enclosed within a building.

(Ord. 1-1984 Art. 1 § 1.2.1, 1984)

8.12.060 Litter storage declared nuisance.

The keeping, storage or deposit of litter in violation of this section is declared to be a nuisance and may be abated in accordance with law.

(Ord. 1-1984 Art. 1 § 1.2.2, 1984)

8.12.070 Keeping of junk prohibited.

It is unlawful for any person to keep, store or deposit or allow to be kept, stored or deposited junk upon his own property or upon property of which he is a tenant in lawful possession, unless

the junk is totally enclosed with a building or is kept within a receptacle for such purpose with a tight fitting lid.

(Ord. 2010-21, 6-17-2010) (Ord. 1-1984 Art. 1 § 1.3.1, 1984)

8.12.080 Junk storage declared nuisance.

The keeping, storage or deposit of junk in violation of this section is declared to be a nuisance and may be abated in accordance with law.

(Ord. 1-1984 Art. 1 § 1.3.2, 1984)

8.12.090 Exceptions.

- A. A motor vehicle without license plates is operable and meets equipment requirements of Part 2, Article 4, Title 42, CRS 1973, as amended, and does not have a license plate merely because of problems of obtaining proper title.
- B. The vehicle is currently licensed, or has been licensed at some point during the past 24 months.
- C. The vehicle is in good operating condition, including tires and windshield.
- D. No part of the vehicle is placed upon jacks, blocks, chains or other supports.
- E. No weeds are growing around or in the vehicle.
- F. All parts of the vehicle necessary for lawful operation upon town streets and state highways are in working order.
- G. There has been substantial movement of the vehicle during the last thirty (30) days.
- H. The vehicle, one per private residential property, is entirely covered with a one-piece opaque heavy tarp or commercial car cover, securely fastened at all times. All weeds and grass are kept trimmed in compliance with section 8.16.010 of the Cedaredge Municipal Code, and the vehicle is not a potential source of contamination of the soil from petroleum products or other toxic liquids being discharged or leaking.
- I. The storage area is licensed and operates as a junk yard and complies with all areas of sections 5.12.010 through 5.12.100 of the Cedaredge Municipal Code.
- J. The used building materials or firewood are in good condition and stored or stacked in a safe, neat and orderly manner.

(Ord. 2010-21, 6-17-2010) (Ord. 1-1984 Art. 1 § 1.3.3, 1984)

8.12.100 Violation-Penalty

Any person who is convicted of violating the provisions of this chapter shall be subject to the provisions of Chapter 1.16.020 of the code of the Town of Cedaredge, Colorado.

Littering Prohibited - First Offense	8.12.020	\$	50.00
Littering Prohibited - Second Offense	8.12.020	\$	200.00
Littering Prohibited - Third Offense	8.12.020		Summons to Court
Storage of Litter Prohibited - First Offense	8.12.050	\$	50.00
Storage of Litter Prohibited - Second Offense	8.12.050	\$	200.00
Storage of Litter Prohibited - Third Offense	8.12.050		Summons to Court
Keeping of Junk Prohibited - First Offense	8.12.070	\$	50.00
Keeping of Junk Prohibited - Second Offense	8.12.070	\$	200.00
Keeping of Junk Prohibited - Third Offense	8.12.070		Summons to Court

(Ord. 2017-04, Ord. 2010-21, 6/17-2010)

Chapter 8.16

WEEDS AND BRUSH

Sections:

8.16.010 Removal of weeds and brush.

8.16.020 Nuisance declared.

8.16.030 Violation-Penalty.

8.16.010 Definitions

Brush means natural growth of bushes and vegetation growing out of place and shall include all cuttings from trees and bushes.

Native Areas means nonresidential areas that maintain the natural character of Cedaredge including but not limited to hillsides, trails, ditches, creeks, areas surrounding other bodies of water, and non-playable areas of the Cedaredge Golf Club.

Noxious Weeds means the plant species defined in §35-5.5-108 C.R.S. and maintained by the Colorado Department of Agriculture

Weeds means an unsightly, useless, troublesome or injurious herbaceous plant growing out of place or any other plant that exceeds 6 inches in height with the exception of cultivated ornamental grasses, shrubs, bushes, flowers, or edible vegetables.

8.16.020 Weed and Brush Control

- A. It shall be unlawful for the owner, lessee, or occupant of a property to fail to control weeds and brush on his or her property including any portion abutting street and alley rights-of-way lying between said property and the centerline of said rights-of-way.
- B. All weeds or brush shall be removed or kept mowed or clipped reasonably close to the ground and maintained not to exceed six inches in height.
- C. All noxious weeds on Colorado “List A” and Western Whorled Milkweed shall be eradicated upon detection without exception.
- D. The following are exceptions to weed and brush control.
 - 1. The plants are maintained for good agricultural practices or the property is used for grazing or other bona fide agricultural use.
 - 2. The plants are located in native areas.
 - 3. The plants are part of a reasonably maintained xeriscaped or landscaped area.
 - 4. The plants are located in non-playable areas of the Cedaredge Golf Club.

8.16.030 Nuisance Declared

Weed or brush in violation of the requirements of Section 8.16.020 are declared a nuisance and may be abated in accordance with the law.

8.16.040 Violation-Penalty

Weeds and Brush Prohibited - First Offense	\$	50.00
Weeds and Brush Prohibited - Second Offense	\$	200.00
Weeds and Brush Prohibited - Third Offense		Summons to Court

Any person summonsed to court and/or convicted of violating the provisions of this chapter shall be subject to the provisions of Chapter 1.16.020 of the code of the Town of Cedaredge.

(Ord. 2017-11; Ord. 2010-21, 6-16-2010) (Ord. 2017-04, 3-16-2016)

Chapter 8.20

ABANDONED VEHICLES

Sections:

- 8.20.010 Prohibited.**
- 8.20.020 Presumption of abandonment.**
- 8.20.030 Nuisance declared.**
- 8.20.040 Violation-Penalty.**

8.20.010 Prohibited.

It is unlawful for any person to abandon a motor vehicle by leaving the same parked upon any public right-of-way or in any public place.

(Ord. 1-1984 Art. 3 § 3.1.2, 1984)

8.20.020 Presumption of abandonment.

A motor vehicle shall be presumed to be abandoned if it is left unattended in one location for thirty (30) or more consecutive days.

(Ord. 1-1984 Art. 3 § 3.1.2, 1984)

8.20.030 Nuisance declared.

Any such abandoned motor vehicle is declared to be a nuisance and may be abated in accordance with law.

(Ord. 1-1984 Art. 3 § 3.1.3, 1984)

8.20.040 Violation-Penalty.

Any person who is convicted of violating the provisions of this chapter shall be subject to the provisions of Chapter 1.16.020 of the code of the Town of Cedaredge, Colorado.

(Ord. 2010-21, 6-17-2010)

Chapter 8.24

NUISANCES

Sections:

- 8.24.010 Prohibited.
- 8.24.020 Nuisances declared.
- 8.24.030 Nuisances subject to abatement without exception.
- 8.24.040 Abatement of nuisances.
- 8.24.050 Cost of abatement-- Recovery--Property assessment.
- 8.24.060 Enforcement.
- 8.24.070 Right of entry upon real estate.
- 8.24.100 Violation – Penalty

8.24.010 Prohibited.

It is unlawful for any person to create, cause, or maintain any nuisance, or to permit any nuisance to exist upon or in connection with any premises owned by him or under his control.

(Ord. 1-1984 Art. 4 § 4.1.1, 1984)

8.24.020 Nuisances declared.

The following are declared to be a nuisance:

- A. Any thing or activity which unreasonably annoys or interferes with the use or enjoyment of public or private property or which constitutes a health or safety hazard;
- B. Anything declared to be a nuisance by any town ordinance or by the statutes or regulations of the state;
- C. Any other thing or activity which under law constitutes a nuisance;
- D. Any excavation exceeding five feet in depth, and cisterns, wells, or any excavation used for storage of water which are not adequately covered with a locked lid or other covering weighing at least sixty (60) pounds, or are not securely fenced with a solid fence to the height of at least five feet;
- E. Any unoccupied building, house or other structure which is in such a state of disrepair that it may collapse at any time or poses a safety hazard to persons upon the premises;
- F. Manure stored for any purpose other than immediate use as fertilizer;
- G. Any unused refrigerator, washer, dryer, freezer, or other appliance accessible to children which does not have the door removed.

(Ord. 1-1984 Art. 4 § 4.1.2, 1984)

8.24.030 Nuisances subject to abatement without exception.

Any use or the manner of use of any property which is declared a nuisance by this section shall be a nuisance subject to abatement under this chapter notwithstanding the fact that such a use might otherwise be allowed under any zoning, land use, building or other applicable regulations of the town.

(Ord. 1-1984 Art. 4 § 4.1.3, 1984)

8.24.040 Abatement of nuisances.

- A. In addition to any other powers granted to the town by law to abate nuisances, any nuisance may be abated in accordance with the provisions of this chapter.
- B. The town may maintain an action in a court of competent jurisdiction to enjoin or abate a nuisance.
- C. The town may prosecute, in municipal court, any person maintaining or allowing a nuisance to exist, and upon conviction, the court may enter an order on such items as it deems appropriate for the abatement of the nuisance in addition to any fine or jail sentence imposed.
- D. The town may give notice in writing to any person responsible for the maintenance of a nuisance, which notice shall allow a reasonable time for such person to correct and eliminate the nuisance. If such person shall fail to correct or eliminate the nuisance by the

time specified in the notice, the town may take action for the correction or elimination of the nuisance and shall have the right to enter upon private property for such purpose. The town may collect the cost of doing so in accordance with Section 8.24.050. Prior to entering upon private property the town shall request the permission of the owner or party in possession of the premises. If such permission is denied or such persons are not located, the town shall not enter onto private property until the municipal court, or other court of competent jurisdiction, issues an order authorizing entry, which may be issued upon a showing of probable cause and compliance with the notice requirements of this subsection.

- E. The town may take all necessary steps, including the entry upon private property, to abate or eliminate a nuisance without notice when such nuisance constitutes an immediate health or safety hazard. In such event, the cost incurred by the town may be collected in accordance with Section 8.24.050. Prior to entry the town shall obtain an order from the municipal court, or other court of competent jurisdiction, authorizing entry, which order the court may issue on a showing of probable cause.

(Ord. 1-1984 Art. 4 § 2, 1984)

8.24.050 Cost of abatement-- Recovery--Property assessment.

- A. The town may recover all costs it incurs, including reasonable attorney fees, plus interest and penalties allowed by law in abating any nuisance as provided in this chapter.
- B. The town may maintain an action in a court of competent jurisdiction for costs incurred in abating a nuisance.
- C. The cost incurred shall be an assessment and lien upon the property affected which may be foreclosed by the town in accordance with law which shall have priority over all other liens except general taxes and prior special assessments.
- D. The costs incurred by the town may be certified to the county treasurer to be collected as delinquent charges together with interest and penalties authorized by law in a manner similar to property taxes against the property upon which the nuisance was maintained.

(Ord. 1-1984 Art. 4 § 3, 1984)

8.24.060 Enforcement.

The provisions of this chapter shall be enforced by any officer of the town, including the town building inspector and any police officer.

(Ord. 6-1995 § 1, 1995; Ord. 1-1984 Art. 4 § 4.4.1, 1984)

8.24.070 Right of entry upon real estate.

Where any officer of the town has reasonable cause to believe that there exists a condition upon any real estate to within the town which constitutes a nuisance, such officer, upon

presentation of proper credentials, may enter upon the premises at reasonable times to inspect the property for compliance with this chapter. Such right of entry shall include the right to take photographs and video recordings of the premises to record the condition of the premises. In the event that the owner or occupant of the property obstructs, prevents, or interferes in any manner with such inspection, the town shall be entitled to apply to the municipal court for an order authorizing such inspection, which order shall be issued upon the showing of reasonable cause to believe that a nuisance condition may exist upon the premises, either with or without prior notice to the owner. Either a written complaint, from any inhabitant of the town, alleging conditions upon such property which would constitute a nuisance under this chapter, or when an officer of the town can show cause that there exists a condition that is contrary to or in violation of the Municipal Codes, shall constitute reasonable cause for such right of entry and inspection.

(Ord. 2010-21, 6-17-2010) (Ord. 6-1995 § 1, 1995; Ord. 1-1984 Art. 4 § 4.4.2, 1984)

8.24.100 Violation – Penalty

Any person who is convicted of violating the provisions of this chapter shall be subject to the provisions of Chapter 1.16.020 of the code of the Town of Cedaredge, Colorado

Nuisances Declared - First Offense	8.24.020	\$	50.00
Nuisances Declared - Second Offense	8.24.020	\$	200.00
Nuisances Declared - Third Offense	8.24.020		Summons to Court

(Ord. 2017-04, 3-16-2016)

Chapter 8.26

OPEN BURNING

Sections:

- 8.26.005 Types of open burning.
- 8.26.010 Permit required.
- 8.26.020 Restrictions.
- 8.26.030 Open burning time period.
- 8.26.040 Reserved.
- 8.26.050 Permit--Availability.
- 8.26.060 Violation--Penalty.
- 8.26.070 Permit--Display--Nontransferable.

8.26.005 Types of open burning.

Agricultural Open Burning. The burning of cover vegetation for the purpose of preparing the soil for crop production, weed control, maintenance of water conveyance structures related to agricultural operations, and other agricultural cultivation purposes.

Exemptions from Open Burning Permit. Colorado Department of Public Health and Environment Air Pollution Control Division and town of Cedaredge exempt from burning permit:

- A. Fires used for noncommercial cooking of food.
- B. Fires used for instructional or training.
- C. Safety flares used to signal danger.
- D. Recreational purposes. (Recreational purposes include smaller fires with a total fuel area of three feet or less in diameter and three feet or less in height.)

State Exempt Open Burning. Colorado Department of Public Health and Environment Air Pollution Control Division burning exempt from permit, but not exempt from town of Cedaredge open burn permit:

- A. Agricultural open burning.
- B. Burning untreated wood products, does not include construction debris.

Open Burning:

- A. Burning of yard waste that does NOT include salvageable wood or tree stumps.
- B. Burning of slash piles.
- C. Permits for other types of open burning are considered on a case-by-case basis.

Note: Exempted types of open burning are permissible without a permit.

Prohibited Open Burning:

- A. Burning of material that contains food wastes, plastic, coated or treated wood products, rubber, insulation, tires, car bodies, insulated wire, motor oil, aerosol cans, hazardous or toxic materials, or other materials that will produce substantial amounts of smoke and particulates.
- B. Burning of wood residue, which includes bark, sawdust, slabs, chips, shavings, mill trim, and other wood products derived from wood processing.
- C. Burning of construction debris (includes both clean and treated wood).
- D. Burning of buildings or structures for demolition purposes.
- E. Burning of material for which a practical alternative method of disposal exists.

(Ord. No. 2009-06, 7-16-2009; Ord. No. 2009-10, 7-16-2009)

8.26.010 Permit required.

- A. Open burning will not be allowed within the Cedaredge town limits without first obtaining a permit from the Colorado Department of Public Health and Environment Air Pollution Control Division and filing a copy of the issued permit with the town.
- B. State-exempt open burning will not be allowed within the Cedaredge town limits without first obtaining a town burn permit.
- C. Prohibited burning is prohibited.

(Ord. 4-1997 (part), 1997) (Ord. No. 2009-06, 7-16-2009; Ord. No. 2009-10, 7-16-2009)

8.26.020 Restrictions.

Open burning shall, with a permit, be allowed under the following restrictions:

- A. Open burning is prohibited within fifty (50) feet of any structure.
- B. All reasonable precautions must be taken to prevent the spread of fire. All burns must be controlled and are the sole responsibility of the holder of the permit.
- C. Adequate provisions must be provided to control or extinguish the fire, if necessary.
- D. All fires must be extinguished by five p.m.; no night burning is allowed.
- E. In the event that complaints are received by the town due to smoke or odor, the town may order that the fire be immediately extinguished.
- F. Prior to starting any burn, the permit holder shall notify the Delta County dispatcher, at the nonemergency number (presently 399-2955) that the burn is going to take place and also inform the dispatcher when the burn is finished.

(Ord. 4-1997 (part), 1997) (Ord. No. 2009-06, 7-16-2009; Ord. No. 2009-10, 7-16-2009)

8.26.030 Open burning time period.

Unless otherwise approved by the board of trustees or the town administrator of the town of Cedaredge, Colorado, the open burning period allowed within the town of Cedaredge shall be the period of October 1st through May 31st of each year.

(Ord. 2001-1(part), 2001: Ord. 4-1997 (part), 1997) (Ord. No. 2009-06, 7-16-2009; Ord. No. 2009-10, 7-16-2009)

8.26.040 Reserved.

8.26.050 Permit--Availability.

A. State permits are available, Colorado Department of Public Health and Environment Air Pollution Control Division APCD-SS-B1, 4300 Cherry Creek DR South, Denver, CO 80246-1530, phone 303-692-3268 or online <http://www.cdphe.state.co.us/ap/openburnfaq.html#apply>.

B. Town open burning permits will be available, at no charge, from the town hall.

(Ord. 2001-1(part), 2001:Ord. 4-1997 (part), 1997) (Ord. No. 2009-06, 7-16-2009; Ord. No. 2009-10, 7-16-2009)

8.26.060 Violation--Penalty.

Open burning without first obtaining a permit shall cause the person responsible to be cited by the town. Punishment for said violation shall result in a fine of up to one thousand dollars (\$1,000.00) or imprisonment not to exceed one year, or both such fine and imprisonment for each violation.

(Ord. 4-1997 (part), 1997) (Ord. No. 2009-06, 7-16-2009; Ord. No. 2009-10, 7-16-2009)

8.26.070 Permit--Display--Nontransferable.

The burn permit shall be kept on the premises where the burn is to take place and shall be subject to inspection at all times by personnel of the town of Cedaredge, Colorado. Such permits are not transferable to any other site or person.

(Ord. 4-1997 (part), 1997) (Ord. No. 2009-0, 7-16-2009; Ord. No. 2009-10, 7-16-2009)

Chapter 8.30

POSTED MATERIALS AND YARD SALE SIGNS

Sections:

8.30.010 Yard sale defined.

8.30.040 Violation--Penalty.

8.30.010 Yard sale defined.

Yard sale means the sale of goods from a residential premises, whether advertised on local media, by signs, or otherwise as a yard sale, barn sale, garage sale, household sale, moving sale or other sale at the seller's place of residence, school, church, fraternal organization, whether accomplished by direct sale or auction. This definition includes auctions or sales conducted by civic groups, church groups, school groups, charitable and/or fraternal organizations or other non-profit organizations.

(Ord. 2002-3 § 1 (part), 2002)

8.30.040 Violation--Penalty.

Any person who is convicted of violating the provisions of this chapter shall be subject to the provisions of Chapter 1.16 of the code of the town of Cedaredge, Colorado.

(Ord. 2002-3 § 1 (part), 2002

Ord. 2012-8 adopted on 09/20/2012 rescinded Sections 8.30.020 Yard Sale Signs and 8.30.030 Posting on Private Property as they are addressed by 2012-3 Sign Code Standards Title 16 Chapter 12.)

Chapter 8.40

MARIJUANA CULTIVATION FOR PERSONAL USE

Sections:

8.40.010 Marijuana Cultivation for Personal Use

8.40.010 Marijuana Cultivation for Personal Use

- A. Purpose. It is the purpose of this chapter to require that marijuana cultivation for personal use within the town shall be conducted in a safe manner that does not endanger the public health, safety, and welfare, or create a public nuisance.
- B. Findings (Background and Authority)
 - 1. Copies of **Amendment 20 Ballot Title** - (Approved by Colorado voters 11/7/2000) and **Amendment 64 Ballot Title** - (Approved by Colorado voters 11/6/2012) are hereby attached as exhibits to this Ordinance. The documents are exhibits to ease access by the public and shall not be codified.
 - 2. The growing or processing of marijuana plants in a residential setting can affect the health, safety, and welfare of both the occupants of the residential structure within which the marijuana is grown, persons occupying nearby structures and the public at large.
 - 3. Nothing in the Colorado constitution, or any other applicable law or regulation, immunizes persons who grow or process marijuana for personal use from local regulation.
 - 4. The town is a home rule municipal corporation organized and existing under its charter and article XX, section 6 of the Colorado constitution. As such, the town possesses all powers granted to home rule municipalities by Colorado law.
 - 5. This chapter to regulate marijuana cultivation for personal use is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the town and the inhabitants thereof, and to reduce the number of public nuisances that exist within the town.
- C. Definitions

Cultivator means a person who is cultivating prescribed medical marijuana or recreational marijuana for personal use.

Dwelling means a building used exclusively for residential occupancy and for permitted accessory uses, including single-family dwellings, two-family dwellings and multi-family dwellings, which includes any attached structure such as a garage. The term dwelling shall not include hotels, motels, tents or other structures designed or used primarily for temporary occupancy.

Enclosed space means a permanent area having a roof and all sides closed to the weather and able to be locked to prevent unauthorized entry.

Locked means secured so as to prevent access.

Marijuana means all parts of the plant of the genus cannabis whether growing or not.

Marijuana cultivation for personal use means a practice in which a person or persons cultivate their prescribed marijuana or recreational marijuana as set forth by law or certified medical provider.

Marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Multi-family dwelling means a dwelling containing three (3) or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar group accommodations.

Openly means perceptible from a place that is open to the general public.

Optional Premises Cultivation Operation means the premises specified in an application for a medical marijuana center license with related growing facilities in Colorado for which the licensee is authorized to grow and cultivate marijuana as further described in C.R.S. § 44-11-104(18), as may be amended from time to time.

Outbuilding means a detached permanent building, such as a shed, barn, or garage, on the same property but separate from a more important one, such as a dwelling.

Marijuana Cultivation for Personal Use means the entitlement to practice or cultivate marijuana by persons under Article XVIII, Section 14 or 16 of the Colorado Constitution; Medical and/or Recreational marijuana cultivation for personal use.

Perceptible means especially of a slight movement or change of state, able to be seen or noticed.

Publicly means occurring on any publicly owned property, or on any non-residential property open to the general public, including any place to which the public or a substantial number of the public have access without restriction, including, but not limited to, roadways, transportation facilities, offices, retail stores, restaurants, places of amusement, parks, playgrounds, and the common areas of public buildings.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or similar place that is leased, owned or controlled by a governmental entity.

Single-family attached dwelling means a single-family dwelling attached to one (1) or more dwellings or buildings, with each dwelling located on its own separate lot.

Single-family dwelling means a dwelling containing no more than one (1) dwelling.

Two-family dwelling means a dwelling containing two (2) dwellings.

D. General Provisions

1. Any applicable fees or procedures shall be adopted by Resolution.
2. Persons operating non-compliant marijuana cultivation for personal use locations shall be advised in writing and given thirty (30) days to comply with all marijuana municipal codes.
3. All information for inspections, compliant and the first thirty (30) days of non-compliant marijuana cultivation for personal use locations shall be processed to maintain confidentiality.

E. Applicability Applicable to all existing or proposed marijuana cultivation for personal use practices.

F. Marijuana cultivation generally

1. It is unlawful for marijuana cultivation to be conducted openly or publicly.
2. Marijuana cultivation shall comply with all applicable requirements of the laws and regulations of the Town and the State.
3. Marijuana cultivation shall be limited to no more than twelve (12) marijuana plants in any one dwelling.
4. It is unlawful for a person cultivating marijuana pursuant to this Chapter to keep, cultivate or process more marijuana than such person is entitled to cultivate and possess under Article XVIII, Section 14 or 16 of the Colorado Constitution.
5. All marijuana cultivation shall take place in a locked and enclosed space.
6. All marijuana products kept on premises where marijuana plants are grown shall be stored in a locked and enclosed space.
7. It is unlawful for marijuana produced under this section to be made available for sale or sold.
8. It is unlawful for Marijuana cultivation to be perceptible from the exterior of the

dwelling in which the cultivation occurs.

9. It is unlawful to use compressed gases and solvents for marijuana cultivation and/or processing.
10. The use of any lighting for indoor marijuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or other fluorescent lighting.
11. It is unlawful to use all high-intensity discharge (HID) lighting, including, but not limited, to mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short- arc lamps.
12. It is unlawful to operate any device that could cause harmful interference to a licensed radio service. (It is the responsibility of the cultivator to comply with FCC compliance.)
13. It is unlawful for a marijuana cultivation activity to result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the dwelling at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. In the event there is a lease of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.

G. Cultivation within dwellings

It is unlawful for a dwelling to have more than 50% of rooms in the dwelling used for marijuana cultivation or 50% of the total square footage of the dwelling used for marijuana cultivation.

H. Cultivation within outbuildings

1. Outbuildings used for cultivating marijuana shall have a minimum setback of 10' from all property lines.
2. Outbuildings used for cultivating marijuana shall have a minimum setback of 20' from all neighboring dwellings.
3. It is unlawful for more than one marijuana plant per four (4) square feet of each outbuilding's maximum marijuana cultivation area.

Outbuilding Square Feet (area) in floor space.	Maximum percent of outbuilding area that shall be used for Marijuana Cultivation
4 to 25 Sq Ft	Not Allowed
26 to 100 Sq Ft	80%
101 to 150 Sq Ft	75%
151 to 225 Sq Ft	70%
Greater than 226 Sq Ft	65%

I. Hazards

1. It is unlawful to store chemicals used for marijuana cultivation inside of the habitable areas of the residence or within public view from neighboring properties and public rights-of-way.
2. Persons cultivating marijuana assume all responsibility for complying with the specific manufacturer's directions in handling, storage, application and disposal of all chemicals and hazardous materials.

J. Fire Protection System

1. A minimum of one portable fire extinguisher shall be located on any site used for marijuana cultivation. The fire extinguisher shall be charged and inspected annually.
2. A smoke detector system is recommended.

K. Disposal

1. Disposal of all products used in the cultivation or processing of marijuana shall be disposed of safely.
 2. It is unlawful to dump marijuana in any public waste facility for the purpose of trash pickup or town cleanup.
 3. It is unlawful to flush, grind or introduce marijuana products into the town sewer waste collection system. This does not apply to bodily functions that may emit traces of marijuana into the system.
 4. It is unlawful to burn marijuana for agricultural purposes or within slash piles.
 5. Disposal of personal use marijuana products shall be transported directly in a secure container by the cultivator, patient, medical provider or home health care provider to the Delta County Adobe Buttes landfill or any other certified landfill.
 6. All commercial waste disposal operations with a business license are not culpable for the incidental marijuana trash pickup within town limits.
- L. Violation-Penalty Any person who is convicted of violating the provisions of this chapter shall be subject to the provisions of Chapter 1.16.020 of the code

(Ord. No. 2014-8 adopted 12-11-2014)

DISASTER PROCEDURES

Sections:

8.50.010 Definitions.

8.50.020 Procedures.

8.50.030 Disaster Emergency Response Powers

8.50.040 Compensation

8.50.050 Line of Succession

8.50.060. Conflicting Ordinance, Orders, Rules and Regulations Suspended

8.50.070 Violation of Regulations

8.50.080 Penalty

8.50.090 Applicability of State Law

8.50.010 Definitions

Disaster Emergency: An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill, or water contamination requiring action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the Town.

Emergency: A serious situation or occurrence that happens unexpectedly and demands immediate action, or creates urgent need for action or assistance.

8.50.020 Procedures

- A. Declaration of Disaster Emergency. The Board of Trustees shall have the power to declare through a resolution that a disaster emergency exists and resources for the emergency are at or beyond Town capacity, or the threat of such event is imminent. If a quorum of the Board of Trustees cannot be formed, the Mayor shall have the authority to declare a disaster or emergency on a temporary basis until a quorum of The Board of Trustees can be seated.
- B. Declaration in Writing. The resolution declaring a State of Disaster Emergency by the Board of Trustees or Mayor shall be in writing and shall describe the nature of the emergency; the area threatened, the conditions which have brought it about, and the conditions that would remedy it in the opinion of Board of Trustees based on the available information. The Town Administrator shall be responsible for publication and dissemination of information to the public and shall file the declaration with the Town Clerk and forward a copy to the Colorado Division of Homeland Security and Emergency Management.
- C. Effect of Declaration. The issuance of a declaration of a disaster emergency shall automatically empower the Town Administrator to exercise any and all of the emergency powers permitted by state and local law and as set forth in the resolution. The Board of Trustees shall convene to perform its legislative powers as the situation demands and shall receive reports through the Town Administrator and evaluate and enact policies and other incident support as required. In case of a disaster emergency requiring immediate action of the Board of Trustees to protect public health, safety, or welfare, the Board of Trustees may convene an emergency meeting without any advance public notice or with such limited advance public notice as the Mayor or other presiding officer finds feasible in circumstances, with full compliance with the Charter requirements relating to notice to be achieved as soon as possible thereafter. Nothing in this Chapter shall abridge or curtail the powers of the Board of Trustees to properly and adequately respond to the emergency. A declaration of disaster emergency may grant the Town Administrator the authority to access emergency reserves, including reserves maintained pursuant to Section 5 of Article XX of the Colorado Constitution, and to request assistance from the Colorado Division of Homeland Security and Emergency Management.
- D. Duration A state of disaster emergency shall remain in effect until the The Board of Trustees or Town Administrator declares that the threat of danger has passed or that the disaster emergency conditions no longer exist. Notwithstanding the forgoing, a state of disaster emergency shall not be continued or renewed for a period in excess of seven days unless the Board of Trustees expressly approves a longer duration. The Board of Trustees may by motion terminate the state of disaster emergency at any time. Upon continuation or termination of a state of disaster emergency, the Town Administrator shall immediately issue and publish a notice affecting the same. Any declaration continuing or terminating a state of disaster emergency shall be filed with the Town Clerk and a copy shall be forwarded to the Colorado Division of Homeland Security and Emergency Management.

8.50.030 Disaster Emergency Response Powers

- A. Upon the issuance of the declaration of disaster emergency and for as long as said declaration is in effect, the Town Administrator of this code shall have and may exercise any and all emergency powers granted by applicable state or local law subsequent to issuance of the disaster emergency declaration.
- B. During the course of a declared disaster emergency a town employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that an emergency situation exists and that an entry on private property is required in order to protect life or minimize an imminent threat to property.
- C. During the course of a declared disaster emergency, the Town Administrator may, on behalf of the town, enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.
- D. During the course of a declaration disaster emergency, the Town Administrator may promulgate such regulations as the manager deems necessary, to protect life and property and preserve critical resources. These regulations shall be confirmed at the earliest practical time by the Board of Trustees, shall be circulated to the public, and shall be disseminated to the news media. These regulations may include, but shall not be limited to powers granted by applicable state or local law. Specifically, during the course of any declared emergency, the Town Administrator may:
 - 1. Suspend the provisions of this code that prescribe conduct of town business, if strict compliance would in any way prevent, hinder, or delay necessary action in coping with the emergency.
 - 2. Transfer, reassign or otherwise change the direction, personnel, or functions of town departments for the purpose of performing or facilitating emergency services.
 - 3. Direct and compel evacuation of persons from any stricken or threatened area within the town if the Town Administrator deems the action necessary for the immediate preservation of life or property or other emergency mitigation, response, or recovery measures.
 - 4. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - 5. Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein.
 - 6. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles with the town.

7. Make provision for the availability and use of temporary emergency housing.
 8. Waive all provisions for competitive bidding and direct the purchase agent to purchase necessary supplies in the open market at not more than commercial prices.
 9. Prohibit or restrict the movement of vehicles in order to facilitate the work of disaster response forces or to facilitate the mass movement of persons to or from critical areas within or without the town.
 10. Declare a public curfew.
 11. Close or regulate the business hours of any commercial establishment in the town when such closing or regulation is in the public interest.
 12. Cause to be carried out such other reasonable measures or regulations as are necessary to preserve public peace, health, and safety.
- E. During the course of a declared disaster emergency, the Town Administrator is authorized to exercise all powers permitted by the Home Rule Charter and state law to require emergency services of any town officer or employee and command the aid of as many citizens of the town as the manager deems necessary in the execution of the manager's duties. Such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for civil defense workers.

8.50.040 Compensation

Compensation for services or private property used by the town in responding to an emergency shall be compensated as specified by contract or as required by state law, subject to the principals and procedures set forth in C.R.S. 24-32-2111 and Articles 1 to 7 of Title 38 of the Colorado Revised Statutes.

8.50.050 Line of Succession

- A. If the Mayor is unable to perform the duties of the Mayor set forth in this Chapter, then the duties conferred upon the Mayor shall be performed in descending order, as follows: by the Mayor Pro-Tem, then by the Board of Trustees Member most senior in length of service, then by the Board of Trustees Member whose last name begins with a letter that is closest to the beginning of the alphabet.
- B. The Town Administrator shall, by the 1st of May of each calendar year, publish and submit to Board of Trustees an order of succession of town officials who shall execute the duties and powers described in this Chapter for execution by the Town Administrator in the event that the Town Administrator is unavailable to manage a disaster emergency.
- C. In any calendar year in which the Town Administrator fails to publish and submit such list to Board of Trustees, the line of succession of authority to manage a disaster emergency

shall include those occupying the following positions (if applicable) in the following order:

1. The Town Administrator
2. The Town Clerk
3. The Public Works Director
4. The Finance Director; or
5. The Chief of Police
6. In the event none of the above noted people are available to serve, the next highest ranking person within each of the various departments, in the line of succession as indicated above, shall serve.

D. However, the succession of authority provided in this section shall always be subject to the power of the Board of Trustees to determine, by appropriate motion, that a specific elected official or staff member shall take responsibility for the management of a disaster emergency.

8.50.060. Conflicting Ordinance, Orders, Rules and Regulations Suspended

Any ordinances, orders, rules or regulations promulgated during a declared disaster emergency shall take precedence over existing ordinances, orders, rules and regulations if a conflict arises during the state of disaster emergency.

8.50.070 Violation of Regulations

It shall be unlawful for any person to violate any of the provisions of this Chapter or of the ordinances, orders, rules or regulations issued pursuant to the authority contained in this Chapter, or to willfully obstruct, hinder, or delay any person in the exercise of any duty or authority pursuant to the provisions of this chapter. Police, code enforcement and such other law enforcement and peace officers as may be authorized by the Town Administrator shall be authorized to enforce the ordinances, orders, rules and regulations made or issued pursuant to this Chapter.

8.50.080 Penalty

Any person convicted of violating any section of this Chapter or any ordinance, order, rule or regulation issued pursuant to the authority contained herein shall be subject to Municipal Code General Penalty 1.16

8.50.090 Applicability of State Law

The Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*, as amended, shall govern the implementation of the duties, powers, immunities and other provisions set forth in this

Chapter to the extent applicable.

The State of Colorado Emergency Relief statute (C.R.S. 24.33.5- 1102) allows the Governor to provide the distribution of medicine, food, and supplies.

The State of Colorado Grants to Individuals statute (C.R.S. 24- 33.5-1106) authorizes the Governor to accept a grant from the federal government to provide financial assistance to an individual or family in a single major disaster declared by the President.

(Ord. No. 2015-5, May 21, 2015)