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Join via phone at 1-719-359-4580 **Meeting ID:** 889 0624 8689
Meeting Passcode: 79264

AGENDA

1. Invocation/Pledge of Allegiance

2. Call to Order/Roll Call

3. Agenda Consent

4. Public Comment

Public comments are limited to three (3) minutes. When you are recognized, please stand, state your name, and then address the Board in a professional manner.

The Board of Trustees may not respond to your comments during this meeting, rather they may take your comments and suggestions under advisement and your questions will be directed to the appropriate person or department for follow-up.

5. Work Sessions

- A. Updating the Town's Building Codes — Presentation by Tom Pitchford with Safebuilt
- B. Town Policies re: Automated Vehicle Identification System - Presentation by Lindsay Sloan, Assistant Town Attorney

6. Public Hearing

- A. ORDINANCE NO. 2026-08 - AN ORDINANCE OF THE TOWN OF KIOWA, COLORADO, REPEALING AND REPLACING THE TOWN'S CHAPTER 16 ZONING CODE AND ZONING ORDINANCES; ADOPTING A NEW ZONING CODE; AND PROVIDING FOR PUBLICATION AND CODIFICATION OF THE NEW ZONING CODE

7. Consent Items

- A. Approval of Minutes
- B. Expenditures for Year-to-Date 2026

8. General Business

- A. Declaring Vacancy on the Board of Trustees.
- B. Election of new Mayor Pro Tem
- C. RESOLUTION 2026-15 - A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE ELBERT COUNTY CLERK AND RECORDER REGARDING THE CONDUCT AND ADMINISTRATION OF THE NOVEMBER 3, 2026, GENERAL ELECTION
- D. RESOLUTION NO. 2026-16, A RESOLUTION APPROVING THE PROFESSIONAL SERVICES AGREEMENT [TECHNICAL SUPPORT FOR KIOWA HOUSING AND COMMUNITY DEVELOPMENT STUDY] BETWEEN THE TOWN AND KIMLEY-HORN AND ASSOCIATES, INC.

9. Staff Reports

- A. Mayor
- B. Board of Trustees
- C. Town Attorney
- D. Town Administrator
- E. Public Works
- F. Code Enforcement

10. Discussion/Communications

- A. Board cell phone use and virtual attendance during meetings

11. Adjourn

Agenda Approved By:

Tammy Hart
Mayor, Town of Kiowa

Date Posted:

8/10/26

Time Posted: 4:00pm

MEETING PROTOCOL AND STANDARDS OF CONDUCT

Public Participation

Public comment is encouraged and will be listed as an agenda item at every regular Board of Trustees meeting.

Each individual wishing to be heard during the public comment period will be given up to three (3) minutes to make a comment.

The public comment period will not be used to make political endorsements or for political campaign purposes.

Questions from the Board will be for clarification purposes only. Public comment will not be used as a time for problem solving or reacting to comments made but, rather, for listening to the comments of citizens without taking any formal action.

The Board may direct the Town Administrator to provide information requested by a speaker during the public comment period.

Speakers are not allowed to make belligerent, accusatory, impertinent, slanderous, threatening, abusive, or disparaging comments.

The Mayor/Chairman may elect to defer public comment on a specific issue that appears on the regular agenda until that specific item is addressed.

The Mayor/Chairman may call for order when sidebar conversations occur in the audience. Those conversations are distracting from the Board addressing the topics at hand.

Members of the public who do not follow proper conduct after a warning in a public meeting may be barred from further participation at that meeting or removed from the Board Chambers pursuant to the Kiowa Municipal Code and Colorado Revised Statutes.

Agenda Item Report

Board of Trustees



MEETING DATE: August 11, 2026

SUBJECT: **Ordinance No. 2026-08** - AN ORDINANCE OF THE TOWN OF KIOWA, COLORADO, REPEALING AND REPLACING THE TOWN'S CHAPTER 16 ZONING CODE AND ZONING ORDINANCES; ADOPTING A NEW ZONING CODE; AND PROVIDING FOR PUBLICATION AND CODIFICATION OF THE NEW ZONING CODE.

FROM: Town Attorney

SUMMARY/BACKGROUND

Ordinance No. 2026-08 ("**Ordinance**") is the last step of the Board of Trustees ("**Board**") in completing the Town's zoning code update that started in 2024. Approving the Ordinance will repeal the Town's Existing Zoning Code, as defined in the Ordinance, and replace it with the **New Zoning Code** that is attached as Exhibit A to the Ordinance.

For a review of the history of the New Zoning Code and treatment of the Town's zoning ordinances, please see the Agenda Item Report for Ordinance No. 2026-04 (the "**AIR Ord. 2026-04**") that was included in the Agenda Packet for the Board of Trustees' meeting on April 14, 2026. The Board adopted Ordinance No. 2026-04, and the New Zoning Code is the product of the corrected 2024 Zoning Code Update, as described in the Next Steps section of AIR Ord. 2026-04.

The following information incorporates and expands on the AIR Ord. 2026-04 and Ordinance No. 2026-04.

Planning Commission Review and Action on New Zoning Code

On April 29 and May 20, 2026, the Planning Commission considered the working draft of the assembled 2024 zoning code update (the "**2024 Update**"). The Commissioners' comments and requested revisions from those meetings were incorporated into a clean draft of the 2024 Update to create the New Zoning Code.

On July 15, 2026, at a duly noticed meeting, the Planning Commission considered the New Zoning Code and adopted Planning Commission Resolution No. 2026-PC-01, approving the New Zoning Code and recommending the Board of Trustees approve and adopt the New Zoning Code as the Town's official zoning ordinance.

New Zoning Code; Limitations

As previously noted during discussions with the Board at prior meetings, the work by my office on the New Zoning Code was limited to completing the objectives in the grant agreement between the Town and the Colorado Department of Local Affairs for the project LPC-IN-906, Kiowa Useable Zoning Code & Housing Development Opportunities. The objectives included reviewing the prior actions taken by the Town connected to the 2024 Update; compiling the "Parts" of the 2024 Update that were reviewed by the Planning Commission and the Board at prior meetings into a single, workable code document; reviewing subsequent zoning ordinances adopted by the Board and incorporating the same into the New Zoning Code, if applicable; adding a new section related to the Fast-Track Approval Process required in

connection with the grant from DOLA; and assisting the Town with taking the necessary steps to adopt the New Zoning Code.

Due to the complexity and time involved with adopting an entirely new zoning code, and the time already expended by the Planning Commission on reviewing the 2024 Update, my work on the New Zoning Code did not include a legal review of every single provision in the New Zoning Code, nor did my office review the New Zoning Code to confirm it is consistent with the Town's other codes, ordinances, and regulations. It is anticipated that future amendments will be required as the Town begins to implement the New Zoning Code.

Public Hearing – Notice by Publication

Notice of the public hearing before the Board of Trustees on the Ordinance was published on July 23, 2026, in the Ranchland News newspaper, a newspaper published weekly and circulated in the Town (“**Notice**”). The Notice was timely published and included all required information for the public hearing, in accordance with Section 16-151 of Chapter 16 of the Town's Municipal Code, as it exists prior to the adoption of the Ordinance, which states, “This Chapter [16] may be amended, supplemented, changed, modified or repealed by the Board of Trustees in accordance with state statutes;” and Sections 31-23-305 and 31-23-304, C.R.S., which requires the Notice to be published at least 15 days prior to the public hearing.

NEXT STEP

The Board must consider the Ordinance at a public hearing, and following discussion of the Board, take one of the following actions:

- (1) Vote to approve the Ordinance, thereby repealing all existing zoning ordinances and adopting the New Zoning Ordinance as the Town's official zoning ordinance;
- (2) If the Board has minor edits to the New Zoning Code, then it may vote to approve the Ordinance subject to the minor edits being made to the New Zoning Code before the Ordinance is published per Sec. 6.03 of the Town's Home Rule Charter;
- (3) If there are major edits to the New Zoning Code, the Board may vote to continue the public hearing to a time, date, and location certain (e.g., the Board's next regular meeting on September 08, 2026, at 7:00 p.m. or soon thereafter, in Town Hall) and direct my office to make the major edits to the New Zoning Code for the Board to consider at the continued hearing date; or
- (4) Vote to reject the Ordinance.

RECOMMENDATION

It is recommended that the Board approve and adopt Ordinance No. 2026-08.

Suggested Motion:

“I MOVE TO ADOPT ORDINANCE NO. 2026-08, AN ORDINANCE OF THE TOWN OF KIOWA, COLORADO, REPEALING AND REPLACING THE TOWN'S CHAPTER 16 ZONING CODE AND ZONING ORDINANCES; ADOPTING A NEW ZONING CODE; AND PROVIDING FOR PUBLICATION AND CODIFICATION OF THE NEW ZONING CODE.”

ORDINANCE NO. 2026-08
TOWN OF KIOWA, COLORADO

**AN ORDINANCE OF THE TOWN OF KIOWA, COLORADO, REPEALING AND
REPLACING THE TOWN'S CHAPTER 16 ZONING CODE AND ZONING
ORDINANCES; ADOPTING A NEW ZONING CODE; AND PROVIDING FOR
PUBLICATION AND CODIFICATION OF THE NEW ZONING CODE**

WHEREAS, the Town of Kiowa (the "Town") is a Colorado home rule municipality organized and existing under Article XX of the Colorado Constitution and the Town of Kiowa Home Rule Charter (the "Charter"); and

WHEREAS, Section 1.03 of the Charter provides that the Town has all authority of local self-government and home rule and all authority possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, Section 1.04 of the Charter authorizes the Town to adopt ordinances and resolutions on local and municipal matters unless otherwise prohibited by the Charter or by laws applicable to Colorado home rule municipal corporations; and

WHEREAS, Section 6.01 of the Charter requires action by ordinance for every act establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property; and

WHEREAS, pursuant to the Charter, Article XX of the Colorado Constitution, and applicable Colorado law, including C.R.S. § 31-23-301, the Town has authority to adopt zoning and land-use regulations by ordinance; and

WHEREAS, the Town has previously adopted zoning ordinances codified in the Kiowa Municipal Code ("Code") as Chapter 16, as well as Ordinance No. 1, Series 2025, *An Ordinance of the Town of Kiowa, Colorado, Amending the Town of Kiowa Zoning Code, Chapter 16, Article IV, Supplemental Regulations, Mobile Food Trucks and Pushcarts and Penalties as Set Forth in the Town of Kiowa, Colorado*, and Ordinance No. 11, Series 2025, *An Ordinance of the Town of Kiowa, Colorado, Amending the Town of Kiowa Zoning Code, Chapter 16, Article XIV, Sign Code, Town of Kiowa, Colorado* (collectively, the "Existing Zoning Code"); and

WHEREAS, the Board of Trustees has determined that it is necessary and appropriate to comprehensively repeal and replace the Existing Zoning Code in order to correct, clarify, modernize, and reorganize the Town's zoning regulations; implement the Town's planning objectives; promote the public health, safety, morals, convenience, order, prosperity, and general welfare; and provide clear standards for property owners, applicants, Town staff, appointed bodies, and the Board of Trustees; and

WHEREAS, the proposed replacement zoning regulations, attached to this Ordinance as **Exhibit A** and incorporated herein by this reference (the "New Zoning Code"), have been reviewed by the Town's Planning Commission at multiple duly noticed public meetings; and

WHEREAS, the Planning Commission, at a duly noticed public meeting on July 15, 2026, approved Planning Commission Resolution No. 2026-PC-01, recommending approval of the New Zoning Code to the Board of Trustees; and

WHEREAS, on July 23, 2026, a public notice of the public hearing on August 11, 2026, before the Board of Trustees on this Ordinance was published in the Ranchland News, a newspaper of general circulation in the Town, in accordance with the requirements of Code Sec. 16-151 and C.R.S. § 31-23-304; and

WHEREAS, the Board of Trustees held a duly noticed public hearing on this Ordinance on August 11, 2026, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Trustees finds and determines that adoption of this Ordinance and the New Zoning Code is in the best interests of the Town and its residents and is necessary for the preservation and protection of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF KIOWA, COLORADO:

Section 1. Recitals Incorporated. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. Repeal of Existing Zoning Code. Effective as provided in Section 11 of this Ordinance, the Existing Zoning Code, as defined in the recitals above, is hereby repealed in its entirety and replaced with the New Zoning Code adopted by this Ordinance.

Section 3. Adoption of New Zoning Code. The Board of Trustees hereby adopts the New Zoning Code attached hereto as Exhibit A. The New Zoning Code shall be codified as Chapter 16 of the Kiowa Municipal Code.

Section 4. Zoning Map. The Town's official zoning map is hereby continued in effect except as expressly amended by the New Zoning Code. The Town Clerk is authorized and directed to maintain the official zoning map in accordance with the New Zoning Code.

Section 5. Pending Applications and Existing Approvals. Unless otherwise expressly provided in the New Zoning Code:

- a. Applications that are complete and pending before the Town as of the effective date of this Ordinance shall be reviewed under either (i) the zoning regulations in effect when the application was determined complete, or (ii) the New Zoning Code, if the applicant makes a written election to proceed under the New Zoning Code and the Town approves such election.
- b. Applications that are incomplete as of the effective date of this Ordinance shall be reviewed under the New Zoning Code.

- c. Any lawful permit, approval, variance, special use approval, site plan approval, development plan, or other zoning or land-use approval granted before the effective date of this Ordinance shall remain valid according to its terms, subject to expiration, lapse, revocation, amendment, or enforcement under applicable law and the terms of the approval.
- d. Any use, structure, lot, sign, or condition that was lawfully established before the effective date of this Ordinance but does not conform to the New Zoning Code shall be governed by the nonconformity provisions of the New Zoning Code.

Section 6. Administrative and Codification Authority. The Town Clerk, Town Attorney, and Town's codifier are authorized to make non-substantive corrections to the New Zoning Code, including corrections to numbering, formatting, cross-references, capitalization, punctuation, grammar, typographical errors, and internal references, provided that such corrections do not alter the substantive meaning or intent of the New Zoning Code.

Section 7. Repealer. All ordinances, resolutions, regulations, policies, or parts thereof in conflict or inconsistent with this Ordinance or the New Zoning Code are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance, resolution, regulation, policy, or part thereof shall not revive any other section or part thereof heretofore repealed or superseded. Except as expressly repealed or amended by this Ordinance, all provisions of the Kiowa Municipal Code shall remain in full force and effect.

Section 8. Savings Clause. The repeal and replacement of the Existing Zoning Code shall not affect any offense committed, penalty incurred, liability accrued, proceeding begun, right established, approval granted, or enforcement action commenced before the effective date of this Ordinance. Such matters may be continued, prosecuted, enforced, or completed as if this Ordinance had not been adopted, except to the extent the Board of Trustees expressly provides otherwise or applicable law requires otherwise.

Section 9. Public Health, Safety, and Welfare Clause. The Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town of Kiowa, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that this Ordinance bears a rational relation to the proper legislative objective sought to be obtained.

Section 10. Severability. If any part, section, subsection, sentence, clause, phrase, word, or other provision of this Ordinance or the New Zoning Code is for any reason held to be unconstitutional, void, ineffective, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the New Zoning Code, and it shall be deemed severed from this Ordinance or the New Zoning Code and the remaining provisions shall remain valid and in full force and effect, in accordance with Section 6.02 of the Town of Kiowa Home Rule Charter. The Board of Trustees declares that it would have adopted this Ordinance and the New Zoning Code, and each section, subsection, sentence, clause,

phrase, word, and provision thereof, irrespective of the fact that any one or more provisions may be declared invalid, unconstitutional, or unenforceable.

Section 11. Publication and Effective Date. This Ordinance shall be published in accordance with Article VI of the Charter. Publication of the title of this Ordinance, together with a statement that the full text is available for public inspection and acquisition in the office of the Town Clerk, shall be sufficient publication. This Ordinance shall take effect on the tenth (10) day after publication following final passage. Any administrative actions necessary to prepare the New Zoning Code for codification, publication, implementation, and enforcement may be taken immediately upon final passage of this Ordinance notwithstanding the effective date of the Ordinance; provided, however, that actual publication and implementation of the New Zoning Code shall not occur until after the Ordinance is effective.

Section 12. Certification. The Town Clerk is hereby directed to certify to the passage of this Ordinance and to cause publication of this Ordinance in accordance with Section 6.03(5) of the Charter.

INTRODUCED, READ BY TITLE, ADOPTED FOR FINAL PASSAGE, AND ORDERED
PUBLISHED ON THE ____ DAY OF _____ 2026.

TOWN OF KIOWA, COLORADO:

Tammy Hart, Mayor

ATTEST:

Sasha Davidson, Town Clerk

CERTIFICATION OF PUBLICATION

I hereby attest and certify that on the date set forth below the foregoing Ordinance was published by title in the Ranchland News, a newspaper of general circulation in the Town of Kiowa, together with a statement that the full text of the Ordinance is available for public inspection and acquisition in the office of the Town Clerk for the Town of Kiowa.

Date of Publication: _____

By: _____
Sasha Davidson, Town Clerk

EXHIBIT A
To Ordinance No. 2026-08

{See attached Chapter 16 – Zoning Code, consisting of 110 pages.}

CHAPTER 16 – ZONING CODE

ARTICLE I – DEFINITIONS

16-1-10. Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this Article shall have the meaning indicated when used in this Chapter. Words, phrases, and terms not defined in this Article but defined elsewhere in this Code shall be construed as defined elsewhere in this Code. Words, phrases, and terms neither defined herein nor elsewhere in this Chapter shall be given usual and customary meanings, except where the context clearly indicates a different meaning. The words *shall* and *will* are mandatory and not permissive; the words *may* and *should* are permissive and not mandatory.

- (1) *Accessory building* means a detached, subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot as the main building or use.
- (2) *Accessory Dwelling Unit (ADU)* means a dwelling unit that is a second, subordinate dwelling unit that meets the requirements of this Code and is located on the same lot as a proposed or existing primary dwelling unit, and that includes separate facilities from the primary dwelling unit for living, sleeping, eating, cooking, and sanitation. An ADU can either be attached to the primary dwelling unit, or it can be a separate, detached structure.
- (3) *Accessory use* means a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises.
- (4) *Adjacent* means all properties with a common point or line to the subject property and the property which would have a common point or line with the subject property if a public right-of-way separating the properties were not there.
- (5) *Adult entertainment establishment* means any establishment which conducts the sale, rental, display or other offering of live entertainment, dancing, or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing, or relating to specified sexual activities or specified anatomical areas and including, but not limited to:
 - (a) *Adult bookstore* means any establishment which sells or rents adult materials including, but not limited to books, magazines, newspapers, movie films, slides or other photographic or written material, or any visual representation, video tapes and/or devices.
 - (b) *Adult cabaret, restaurant or place of business* means a cabaret, restaurant or place of business which features topless and/or bottomless waitresses, waiters, dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

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- (c) *Adult hotel or motel* means any hotel or motel in which the presentation of adult material is the primary or principal attraction.
 - (d) *Adult mini-motion picture theater* means any fully enclosed theater with a capacity of less than 50 persons in which the presentation of adult material is the primary or principal attraction.
 - (e) *Adult motion picture arcade* means any establishment in which the primary or principal attraction is the presentation of adult material by image-producing devices, typically limited to viewing by five or fewer persons per device.
 - (f) *Adult motion picture theater* means any fully enclosed theatre with a capacity of 50 or more people in which the presentation of adult material is the primary or principal attraction.
 - (g) *Adult novelty store* means any establishment which as a substantial or significant portion of its stock in trade sells or rents adult materials including, but not limited to apparel, bakery products, novelties, gifts, or any visual representation, and/or devices.
- (6) *Agriculture* means farming or ranching uses, including buildings for shelter of farm or ranch animals or property primarily employed in farming or ranching, including the grazing or raising of livestock (except in feedlots). An agricultural use may include those activities necessary to operate the agricultural business, however, it does not include processing of agricultural products, which shall only be permitted pursuant to the underlying zone district for the subject property.
 - (7) *Alcoholic beverage and medical marijuana operations* means the manufacturing, production, distribution or sale of alcoholic beverages, except as provided in Section 44-3-106, C.R.S., and the cultivation, manufacturing, distributing or selling of medical marijuana, except by a patient registered pursuant to Section 25-1.5-106, C.R.S., and in compliance with Section 14, Article XVIII, of the Colorado Constitution and Article Title 12, C.R.S.
 - (8) *Alley* means a public or private vehicular passageway dedicated or permanently reserved as a means of secondary access to abutting property and designed as an alley on a final plate.
 - (9) *Alteration*, as applied to a building, means any change, addition or modification in construction, occupancy or use.
 - (10) *Amphitheater* means a theater, including outdoor theaters, arenas and band shells for outdoor music concerts, circuses, carnivals, rodeos and productions that may or may not be lighted.
 - (11) *Animal* means any mammal, bird, fish, reptile, amphibian, or insect.
 - (12) *Animal breeder* means any person who is engaged in the operation of breeding and raising animals for the purpose of selling, trading, bartering, giving away or otherwise transferring the same.

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- (13) *Applicant* means any owner of a right or title to real property in Town or an authorized representative of such owner who formally requests action on a land use proposal submitted in accordance with this Chapter.
- (14) *Assistance animal* means an animal, having received certification through an accredited program with specific characteristics, becoming a fundamental part of a person's treatment designed to improve the physical, social, emotional and/or cognitive function of the patient/owner, and may include a service animal. An assistance animal that is not otherwise defined as a horse or livestock shall be exempt from any numerical limitations on animals set forth herein.
- (15) *Assisted living residence* means a residential facility that makes available to three or more adults not related to the owner of the facility, either directly or indirectly through an agreement with a resident, room and board and at least the following services: Personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that is available on a twenty-four-hour basis and includes a facility operated for persons with intellectual and developmental disabilities, a long-term care facility, and any other facility of a similar nature.
- (16) *Authorized representative* means any individual, partnership or corporation given written authorization by an applicant to process a proposal through the Town.
- (17) *Automotive repair shop* means a business establishment engaged in the diagnosis, maintenance, service, repair, rebuilding, or replacement of mechanical, electrical, hydraulic, suspension, exhaust, transmission, brake, cooling, or similar components of motor vehicles, including passenger vehicles, light trucks, vans, motorcycles, tractors, trailers, and similar motorized vehicles, including mechanical, farm, and construction equipment. An Automotive Repair Shop may include customary accessory activities such as oil changes, tire services, wheel alignment, battery replacement, emissions-related repairs, and the sale of incidental automotive parts and accessories. Such use shall not include the retail sale of fuel, gasoline or petroleum products.
- (18) *Automotive sales (commercial or industrial)* means a business establishment engaged in the display, sale, lease, rental, brokerage, or auction of heavy-duty trucks, tractor-trailers, buses, commercial fleet vehicles, construction equipment, agricultural equipment, industrial machinery, utility vehicles, or similar motorized equipment designed primarily for commercial, industrial, agricultural, construction, or institutional use.
- (19) *Automotive sales (passenger vehicles)* means a business establishment engaged in the display, sale, lease, rental, brokerage, or auction of new or used passenger automobiles, sport utility vehicles, pickup trucks, vans, motorcycles, and similar light-duty motor vehicles intended primarily for personal or household transportation.
- (20) *Bar or tavern* means a licensed establishment providing or dispensing fermented malt beverages, and/or malt, vinous or spirituous liquors for consumption on the premises and in which the sale of food products such as sandwiches or light snacks is secondary.
- (21) *Bed and breakfast* means a lodging establishment operating as an overnight guest facility for a fee in a private residence or a portion thereof, which is occupied by the owner or a

resident manager. Kitchen and dining facilities serve only residents and overnight guests and are not operated in the manner of a commercial restaurant, and facilities are not used for any commercial activities such as catered private parties or receptions, retail sales or similar activities.

- (22) *Block* means an area of land within a subdivision which is entirely bounded by streets, highways, natural boundaries or the exterior boundary or boundaries of the subdivision.
- (23) *Buffer* means a strip of land established to separate and protect one (1) type of land use from another to screen from objectionable noise, smoke or visual impact, or to provide for future public improvements or additional open space, often in conjunction with a floodplain.
- (24) *Building* means any structure used or intended for supporting or sheltering any use or occupancy. For purposes of the zoning code, the term "building" refers to structures that although movable, are designed primarily to remain in one place once constructed or attached to the ground or a foundation; mobile homes are not buildings; however, manufactured homes are considered buildings.
- (25) *Building height* means the vertical distance from the average finished grade to the highest point of the roof surface. A weighted average on the perimeter of the building may be utilized.
- (26) *Building line* means imaginary lines on a lot delineating the closest points from lot lines, public streets, planning areas or project area boundaries or other applicable perimeter lines, where any main building may be constructed.
- (27) *Bulk storage of dangerous materials* means the bulk storage of dangerous materials for delivery and sale, including but not limited to petroleum products, LPG (wholesale), natural gas, fertilizer, methane, or other volatile, explosive, hazardous or dangerous materials that may create hazardous or commonly recognized offensive conditions.
- (28) *Bulk storage of liquefied petroleum gas* means the bulk storage of LPG used for retail purposes only.
- (29) *Child care center* means a licensed facility, by whatever name known, which is maintained for the whole or part of a day for the care of five or more children who are 18 years of age or younger and who are not related to the owner, operator or manager, whether the facility is operated with or without compensation for such care and with or without stated educational purposes, but specifically excluding a family child care home as defined in this zoning code. Operating a childcare center without proper licensure as required by the Colorado Child Care Licensing Act shall constitute a zoning violation.
- (30) *Church* means a non-secular or non-profit facility or establishment that includes, at a minimum, a sanctuary space, religious education, and/or ministry, and may also include clothing and food distribution (kitchen facility), counseling, employment assistance, study or library space, childcare services, referral services, support groups, and assembly room. A place of worship is limited to one single-family dwelling unit. A place of

worship does not include businesses operated by the religious group for support of religious activities or for charitable purposes.

- (31) *Club* means an association of persons, whether incorporated or unincorporated, for some common purpose, but not including groups organized primarily to render a service carried on as a business.
- (32) *Code* shall mean the Town of Kiowa Municipal Code.
- (33) *Commercial animal establishment* means any pet shop, grooming shop, dog training facility, boarding or breeding kennel, or other establishment which handles live animals, excluding veterinary facilities and hospital for animals.
- (34) *Common property* means a parcel of land, an area of water, or a combination of land and water, including easements, private streets, roads and parking areas and trails and pedestrian areas, within the site designated for a planned unit development (PUD) designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development.
- (35) *Condominium* or *condominium unit* is a privately owned individual unit within a community of other units. It is a type of real estate property that is part of a larger complex or building of units. The ownership of a condominium unit is deemed to consist of a separate estate in an individual air space unit of a multi-unit property together with an undivided interest in common elements.
- (36) *Contractor* is any is someone who performs work that requires a building or mechanical permit. A laborer who works under a contractor's supervision is not considered a contractor.
- (37) *Covenants* means a private written agreement outlining regulations specific to a development. As private restrictions, they are not enforced by the town. In the event of conflict between the covenants and this zoning code, the zoning code controls.
- (38) *Dedicated land* means land area transferred to the Town by deed or other legal method approved by the Town Attorney. Land so transferred and accepted by the Town shall be utilized for public or community purposes, as approved by the Board of Trustees.
- (39) *Developable area* means the area of a parcel that is capable of being receptive to construction without major grading, draining or floodplain alterations. Areas that would not be considered as developable include, but are not limited to:
 - (a) Areas within a 100-year floodplain;
 - (b) Areas within any geological hazard zone;
 - (c) Areas where the slope is greater than 30 percent;
 - (d) Wetlands, as determined by the US Army Corps of Engineers; and
 - (e) Easement areas or designated setbacks.

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- (40) *Developer* means any person, corporation, joint venture, partnership or other entity which applies to the Town for any of the following services: annexation, zoning, subdivision, site plan, variance or other administrative, quasi-judicial or legislative function of the Town.
- (41) *Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.
- (42) *Development plan* means the written and graphical documents that detail the provisions for development of a planned unit development (PUD). These provisions may include, but need not be limited to, easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities; common open space, and other public facilities.
- (43) *Domesticated animals* mean animals accustomed to living in or about the habitation of persons, but of a nature more suited to be outdoors, including but not limited to cats, dogs, birds, such as parrots, cockatiels, parakeets, pot belly pigs and the like; excluding swine, fowl, including but not limited to peacocks, ducks, turkeys, and chickens.
- (44) *Dude ranch* means a resort patterned after a western ranch, featuring camping, horseback riding and other outdoor activities.
- (45) *Dwelling* means any building or portion thereof which is used as the private residence or sleeping place of one (1) or more human beings, but not including hotels, motels, tourist courts, clubs, hospitals, mobile homes or similar uses.
- (46) *Dwelling, multiple family* means a building, or portion thereof, designed for or occupied by three (3) or more families living independently of each other in separate dwelling units.
- (47) *Dwelling, single-family* means a dwelling situated on 1 lot and arranged, designed or intended for occupancy by not more than one (1) family in compliance with the Town building code. The dwelling must function as a continuous enclosure without any impassable separation such as a wall or floor. Dwelling spaces jointed by a garage or breezeway are considered to be a separate dwelling.
- (48) *Dwelling, two-family* means a detached building designed exclusively for occupancy by two (2) families living independently of each other in separate dwelling units.
- (49) *Dwelling unit* means one (1) or more rooms in a dwelling, apartment house or apartment hotel designed for occupancy by one (1) family for living or sleeping purposes and having not more than one (1) kitchen.
- (50) *Dwelling unit, second* means second family home on same property.
- (51) *Easement* means an acquired right of use, interest or privilege in land owned by another, which interest is recorded in the real estate records of the County.

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- (52) *Factory-built home* means a dwelling designed for one (1) family which is partially or entirely manufactured in a factory and designed for long-term residential use; built in multiple sections each on a chassis which enables it to be transported to its occupancy site. Factory-built homes must be constructed to the standards of the State of Colorado Factory Built Housing Construction Certification Code (8CCR 1302-14), as the same may be amended from time to time and bear a certification insignia in compliance with those standards.
- (53) *Family* means an individual or two or more persons occupying a dwelling unit and living together as a single housekeeping unit, including persons related or unrelated by blood, marriage, civil union, domestic partnership, adoption, guardianship, custodial relationship, or other legal relationship. For purposes of this Code, “family” is a land-use classification and shall not be construed to limit occupancy of a dwelling unit based on whether occupants are related to one another. Occupancy limitations may be based on demonstrated health and safety standards, including applicable building code, fire code, water quality, wastewater, or sanitation standards, or on local, state, or federal affordable housing program standards.
- (54) *Family childcare home* means a licensed facility for childcare in a place of residence of a family or person for the purpose of providing less than 24-hour care for children under the age of 18 years who are not related to the head of such home. Operating a family childcare home without proper licensure as required by the Colorado Childcare Licensing Act shall constitute a zoning violation.
- (55) *Fee Schedule* or *Town’s Fee Schedule* means the official fee schedule of the Town adopted by resolution of the Board of Trustees from time to time.
- (56) *Fence* means a fence, wall, hedge or other structure forming a boundary or enclosing an area.
- (57) *Final plat* means the map or plan of record of a subdivision and any accompanying material, as described in the Town of Kiowa’s subdivision code, as amended from time to time.
- (58) *Floor area* means the area of the building measured on the outside walls but excluding unroofed porches and garages.
- (59) *Front*, when used in reference to a building or parcel, means the side providing the primary access, whether by public or private street, road, or driveway.
- (60) *Frontage* means the length of the property line of a parcel which abuts a legally accessible street.
- (61) *Funeral home* means a building or establishment used for the preparation of the deceased for burial or cremation, for the display of the deceased and/or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicles and other funeral supplies.
- (62) *Gas station* means any establishment, building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold or where light maintenance

activities such as engine tune-ups, lubrication, brake services, tire services, transmission services and minor repairs may be conducted.

- (63) *Grade (ground level)* is the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of a sidewalk, said ground level shall be measured at the sidewalk.
- (64) *Grading* means the vertical location of the ground surface.
- (65) *Group home aged* means an owner-occupied or nonprofit group home for the exclusive use of not more than eight people 60 years of age or older and the appropriate staff.
- (66) *Group home, developmentally disabled/mentally ill* means a group home, licensed by the state, for the exclusive use of not more than eight developmentally disabled or mentally ill persons and the appropriate staff.
- (67) *Health Care Facility* means an entity that is licensed, certified, or otherwise permitted by law to administer medical treatment in Colorado, including a hospital, clinic, hospice entity, community mental health center, federally qualified health center, rural health clinic, organization providing a program of all-inclusive care for the elderly, long-term care facility, continuing care retirement community, or other type of entity where healthcare is provided.
- (68) *Heavy industrial* means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing process using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. Heavy industrial shall also mean solid waste or sanitary waste transfer stations, and recycling processing facilities.
- (69) *Height* means the average distance measured vertically from the mid-point between the eave and the ridgeline within the building footprint, on a proposed or existing roof or eave to the existing or finished grade (whichever is more restrictive) located directly below said mid-point.
- (70) *Home occupation* means any use conducted principally within a dwelling and carried on by the inhabitants therein, without paid assistants, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The individual office of a professional man or woman or artist without assistants shall be considered a *home occupation*, but the conducting of a clinic, hospital, barber shop, beauty parlor, tearoom, tourist home, animal hospital or any similar use shall not be deemed to be a *home occupation*.
- (71) *Horse and/or equine* means a large solid-hoofed herbivorous ungulate mammal domesticated since prehistoric times and used as a beast of burden, a draft animal or for riding. *Horses* include a pony, mule, burro, miniature horses, zebras and asses.
- (72) *Home occupation* means any occupation, trade or business carried on as a secondary use of property devoted primarily to residential use.

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- (73) *Hospital* means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as an emergency room, laboratories, out-patient departments, rehabilitation departments, training and central service facilities and staff offices, medical office buildings or a satellite facility operated by a hospital located outside the Town.
- (74) *Hostel* means a lodging establishment with an owner, manager or staff member required to be present on the premises, which provides overnight accommodations and in which the guests may share bedrooms or dormitory facilities, bathrooms, a kitchen and a lounge. Such accommodations may be provided for a fee or in exchange for services by the guest at the facility.
- (75) *Hotel/motel/lodging establishment* means a building or group of associated buildings designed for occupancy as a temporary lodging place (fewer than 30 days) which is operated under a single management providing the occupants thereof the usual accommodation services and facilities.
- (76) *Intermediate health care facility* means a health-related institution or establishment planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventative in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and 24-hour per day nursing services are required.
- (77) *Junkyard* means a building, structure or parcel of land, or portion thereof, used for collecting, storage or sale of used parts, rags, scrap metal or discarded material, or for the collection, storage, salvage or demolition of vehicles, machinery or other materials, and including the sale of the whole or parts thereof.
- (78) *Kennel, commercial* means any place where more than three (3) dogs over four (4) months of age are owned, kept, boarded, bred and/or offered for sale; or eight (8) or more dogs, breeding or nonbreeding, are harbored, and upon which a person breeds more than two (2) litters in a calendar year.
- (79) *Kennel, private* means any premises, building or structure in or on which more than three (3) and less than eight (8) nonbreeding dogs of more than four (4) months of age are harbored.
- (80) *Landscape* may include the following features:
- (a) Typical grass, trees, shrubs or existing native vegetation; or
 - (b) Xeriscape design with drought tolerant tree and shrub species with a ground cover of rock, bark mulch, or similar material; or
 - (c) Rock lined drainage swales to accommodate storm drainage needs; or
 - (d) Drought tolerant native seed initially established with above ground irrigation, but cannot exceed 75 percent of required landscape area; or

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- (e) Public use areas which may include seating, activities or games area, public art displays, fountains or other similar uses encouraging public use; or
 - (f) Any combination of the above is allowed and attractive landscaping must be created along street frontages.
- (81) *Light industrial* means uses engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Light industrial shall also mean uses such as the manufacture of electronic instruments; preparation of food products; the operation, parking and maintenance of vehicles; pharmaceutical manufacturing; research and scientific laboratories or the like; and transport terminals (truck terminals, public works yard, container storage). Light industrial shall not include uses such as asphalt batch plants, mining and extracting industries, petrochemical industries, rubber refining, primary metal or related industries
 - (82) *Light industry* means the assembly, manufacture, processing, packaging or other industrial operation which is conducted in such a manner that all resultant waste, dust, fumes, gases, odors, smoke and vapor are effectively confined to the premises or disposed of so as to avoid any air pollution, and that no noise or lights would be receptive, noticeable or observable by a person at a distance of sixty (60) feet or more from the premises.
 - (83) *Livestock* means cattle, sheep, goats, llamas, alpacas, emus, swine of all sizes excluding pot belly pigs.
 - (84) *Living unit* means that area actually utilized in a building by the family residing therein. This definition applies to a structure whose use is designed for long-term occupancy and containing hot and cold running water, shower or bath, water closet and sink.
 - (85) *Lot* means a parcel of real property as shown with a separate and distinct number or letter on a plat recorded in the records of the County or, when not so platted in a recorded subdivision, a parcel of real property abutting upon at least one (1) public street and held under separate ownership.
 - (86) *Lot area* means the total horizontal area within the lot lines of a lot.
 - (87) *Lot coverage* means the portion of a lot covered by a building or buildings including roof overhangs, covered porches, covered walkways or other similar covered areas.
 - (88) *Lot line, front* means the property line dividing a lot from a street. On a corner lot, only one (1) street line shall be considered as a front line, or the house will be addressed to ensure that setbacks may be met.
 - (89) *Lot line, rear* means the lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three (3) lot lines will not have a rear lot line.
 - (90) *Lot line, side* means any boundary of a lot that is not a front or rear lot line. On a corner lot, a side lot line may be a street lot line.

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- (91) *Lot, reversed corner* means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
- (92) *Maintenance* means any person or legal entity having a legal or equitable interest in property to upkeep and repair property to ensure that it remains in good condition and functions as intended and may include routine tasks such as cleaning, landscaping, and repairs to more complex tasks such as plumbing, electrical work, and structural repairs. Maintenance is essential to preserve a property's value, ensure its occupants' safety, and maintain its appearance.
- (93) *Manufactured home* refers to mobile homes, trailer houses, and manufactured homes and specifically defined as follows:
- (a) *Manufactured Homes* are built to Department of Housing and Urban Development (HUD) standards and placed on a temporary foundation and titled. However, manufactured homes may be placed on a permanent foundation and not titled with proper documentation recorded.
 - (b) *Mobile Homes/Trailer Houses* manufactured prior to June 15, 1976. Most mobile homes were built to American National Standards Institute (ANSI) standards and placed on a temporary foundation and titled by the County Clerk and Recorder.
 - (c) *Titled Manufactured Home* has a Colorado Certificate of Title issued by the County Clerk and Recorder. Titled homes are typically located in a manufactured home park.
 - (d) *Untitled Homes* are a manufactured home that does not have a Certificate of Title because one was not required when the home was placed on a permanent foundation, or the Certificate of Title may have been purged from the records of the County Clerk and Recorder when the home was permanently affixed to the land. Owners of manufactured homes which are permanently affixed to the land must record proper documentation.
- (94) *Miniature horse* means a smaller version of the horse, determined by the height of the animal, which is usually less than thirty-four (34) to thirty-eight (38) inches, as measured at the wither, and retaining horse characteristics. In accordance with the Americans with Disabilities, miniature horses that have been individually trained to do work or perform tasks for people with disabilities shall be permitted where reasonable. Factors to consider for accommodation are whether: the animal is housebroken; under the owner's control; the facility can accommodate the animal's type, size, and weight; and the animal's presence will not compromise the legitimate safety requirements necessary for safe operation of the facility.
- (95) *Modular home* means a dwelling that is partially or entirely manufactured in a factory, is not built on a permanent chassis, and is constructed in conformance to the International Residential Code.
- (96) *Motel* means a roadside hotel designed primarily for motorists, typically having rooms arranged in a low building with parking directly outside.

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- (97) *Multifamily*, when referring to a dwelling, means a building containing duplexes, triplexes, fourplexes, townhouses, row houses, condominiums or apartments designed or used as two or more dwelling units, the total number of families in residence not exceeding the total number of dwelling units.
- (98) *Natural Medicine Business* means any of the following entities as defined by state law, as amended from time to time:
- (a) *Healing Center*, a facility where an entity is licensed by the State Licensing Authority pursuant to Article 50 of Title 44, C.R.S., that permits a Facilitator to provide and supervise Natural Medicine Services for a Participant.
 - (b) *Natural Medicine Cultivation Facility*, a location where Regulated Natural Medicine is grown, harvested, and prepared in order to be transferred and distributed to either a Healing Center, Facilitator, a Natural Medicine Products Manufacturer, or to another Natural Medicine Cultivation Facility.
 - (c) *Natural Medicine Products Manufacturer*, a person who manufactures Regulated Natural Medicine Products for transfer to a Healing Center, Facilitator, or to another Natural Medicine Products Manufacturer.
 - (d) *Natural Medicine Testing Facility*, a public or private laboratory licensed, or approved by the Division, to perform testing and research on Regulated Natural Medicine and Regulated Natural Medicine Product.
- (99) *Nightclub* means a bar, tavern or restaurant licensed to sell alcoholic beverages and containing more than 100 square feet of dance floor area.
- (100) *Nonconforming* means a use, building, structure, lot, parcel or condition that was lawful when initiated, created or constructed, but which does not currently comply with the requirements of the land use code.
- (101) *Nursing care facility* means a health institution or establishment planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients who require regular medical care and 24-hour per day nursing services for illness, injury or disability, which meets the state nursing home licensing standards and the requirements in federal regulations for certification as a qualified provider of nursing facility services. Each patient shall be under the care of a physician licensed to practice medicine in the State of Colorado. The nursing services shall be organized and maintained to provide 24-hour per day nursing services under the direction of a registered nurse employed full time.
- (102) *Official zoning district map* means the official zoning district map of the town, together with all ordinances adding to or amending the official zoning district map adopted from time to time by the Town.
- (103) *Office* means a building or portion of a building used for the transaction of administrative, executive, business, professional or clerical operations, such as offices of physicians, dentists, lawyers, architects, engineers, musicians, teachers, accountants, real estate agents, insurance agents, brokers, corporate offices, financial institutions,

development companies, insurance companies, design companies, government offices and other similar businesses and professions and services where there is limited storage, sale or display of merchandise for retail sale on the premises accessory to the business, profession or services offered.

- (104) *Off-street parking* means the area on a parcel designed to accommodate a parked motor vehicle as an accessory use of the parcel.
- (105) *Open space* means any specifically designated or dedicated parcel or portion thereof that may be used for park, agricultural, recreation or conservation opportunities. Construction within open space is limited to foot paths, bridges, irrigation structures, erosion protection devices, underground utilities, outdoor recreation facilities, and similar type uses, unless further restricted by conservation easement. Ownership of open space may be deeded to a property owner's association, dedicated to the public, or protected in other forms deemed acceptable to the town. Indoor recreation facilities shall not be included in open space
- (106) *Owner* means a person, as defined by this Article, who, alone, jointly or severally with others or in a representative capacity (including, without limitation, an authorized agent, executor or trustee), has legal or equitable title to any property in question.
- (107) *Outside storage* means the accumulation or storage of parts, appliances, materials, equipment and merchandise not kept within an approved structure; the storage of trailers, whether abandoned or used for business or commercial purposes, as an office, or for the storage of items; the overnight storage of inoperable motor vehicles and/or off-road vehicles, motor vehicles and/or off-road vehicles needing repair, or those which have had valid license plates or other identifying marks removed; the overnight storage of motor vehicles and/or off-road vehicles that have been left unattended or unmoved for more than seven days; and the storage of motor vehicles and/or off-road vehicles that are available for rent. "Outside storage" does not include motor vehicles and/or off-road vehicles for sale (including automobiles, ATVs, snowmobiles, recreational vehicles, motorcycles), the storage of materials within a garage or other fully enclosed structure, and the temporary display of outdoor seasonal merchandise for retail operations for no more than 12 consecutive weeks per year.
- (108) *Parcel* means any separately described or conveyed parcel of land that has been created by conveyance, subdivision or otherwise, whether legally subdivided or not, and includes lots, tracts, parcels, outlots, and parcels designated by other names.
- (109) *Park* means a park equipped with improvements or facilities for particular leisure, pastime, and recreational use, such as tennis, basketball, swimming, baseball, batting cages, skateboard parks, soccer, football, horseshoes, ice skating, athletic fields, playground equipment, snow sledding, climbing, walking and other similar and related activities which may or may not be lighted. Parks are usually available to use by the general public.
- (110) *Person* means any individual, entity, firm, partnership, joint venture, association, club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, governmental entity, or informal association of the same.

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- (111) *Parking Space* means an area, exclusive of drives, turning areas, or loading space, that is devoted to the parking of one (1) vehicle.
- (112) *Pet animal facility* means an establishment required to be licensed by the Colorado Department of Agriculture for the keeping of pet animals for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading, or otherwise transferring such animals, pursuant to the Pet Animal Care and Facilities Act.
- (113) *Planned unit development (PUD)* means a project of a single owner or a group of owners acting jointly, involving a related group of residences, businesses, or industries and associated uses. Planned as a single entity, the project is subject to development and regulation as one land use unit rather than as an aggregation of individual buildings located on separate lots. The planned unit development does not correspond in lot size, bulk, or type of use, density, lot coverage, open space, or other restriction to the existing land use regulations set forth in this zoning code. The planned unit development shall include usable, functional open space for the mutual benefit of the entire tract and is designed to provide variety and diversity through the variation of normal zoning and subdivision standards so maximum long-range benefits can be gained, and the unique features of the development or site preserved and enhanced while still being in harmony with the surrounding neighborhood. A planned unit development is a separate zone district that may be approved by the town in accordance with the provisions of this chapter. Notwithstanding the approval of a PUD zone district, a final plat must be approved pursuant to the Town of Kiowa's subdivision codes, as amended from time to time, prior to any subdivision or separate conveyance of land within the planned unit development. Any application for a planned unit development shall be submitted and processed simultaneously with the processing of the subdivision application for the same property.
- (114) *Plat* means the maps and supporting materials of a proposed subdivision, prepared in accordance with the requirements of the Town of Kiowa's subdivision codes, as amended from time to time, and utilized as an instrument for recording real estate interests with the Elbert County Clerk and Recorder.
- (115) *Playground* means a parcel used for outside recreation use. Playgrounds may be unimproved or improved with playground facilities, picnic areas, and similar facilities mainly meant to serve children. Playgrounds may or may not be available for use by the general public.
- (116) *Professional breeder* means any person who breeds animals of any species for profit or who produces more than two (2) litters or such of a similar nature, in any one (1) calendar year.
- (117) *Public facility* means a building or structure owned and operated by a governmental agency to provide a governmental service to the public and owned or controlled by the Town, County, State, federal government or any subdivision thereof.
- (118) *Public hearing* means a meeting called by a public body for which notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

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- (119) *Public meeting* means any meeting of a public body open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other law of this state.
- (120) *Public water and public sewer facilities* means those facilities of a municipality, public utility, Kiowa Water and Wastewater Authority, nonprofit corporation, sanitation or water or other special district, which are constructed, operated and maintained to provide water or sewerage service and approved by the County Health Officer, state or county regulatory agencies.
- (121) *Quasi-public* means a use or facility owned or operated by a nonprofit, religious, or charitable institution that provides educational, cultural, recreational, religious, or similar types of programs.
- (122) *Recreation center* means a building or portion thereof designed for recreational uses, including non-spectator and spectator games, events, sports, and other recreational activities and programs including organized leagues and programs, and individual or unorganized programs. Recreational use includes all uses generally associated with a recreation center, gymnasium or other indoor recreation or sports complex, including basketball, racquetball, swimming, gymnastics, weight-lifting, dancing, volleyball, court games and sports, board games, gym, indoor climbing, boxing, martial arts, theater, art, education programs, and other similar and related activities.
- (123) *Recreation facility, indoor* means an establishment providing completely enclosed recreation, training or fitness activities, including but not limited to bowling, electronic games, roller skating or ice skating, billiards or pool, theater, motion picture theater, dance studio, equestrian center, health club, spa, boxing, martial arts, climbing, swimming, tennis and related amusements. Accessory uses may include the preparation and serving of food and/or sale of clothing and equipment related to such uses.
- (124) *Recreation facility, outdoor* means an outdoor establishment or enterprise whose main purpose is to provide the general public with an entertaining activity, where tickets are sold or fees are collected, including but not limited to miniature golf courses, golf driving ranges, go-kart tracks, water parks, children's rides, outdoor arcades, skateboard parks, rodeo arena or a fairground. Accessory uses may include the preparation and serving of food or sale of clothing and equipment related to such uses.
- (125) *Recreational vehicle* is defined as a self-contained transportation structure, self-propelled or capable of being towed by a passenger car, station wagon or pick-up truck, of such size and weight as not to require any special highway movement permits, and primarily designed or constructed to provide temporary, moveable living quarters for recreational, camping, travel and commercial use. Included as recreational vehicles are trailers, trailer coaches, camping trailers, motor homes, pick-up (slide-in) campers, chassis mounts, converted vans, chopped vans, mini-motor homes, and fifth-wheel trailers of recreational vehicle construction (as opposed to commercial fifth-wheel trailers). An *occupied recreational vehicle* shall mean such vehicle is being used as a domicile which shall mean, by way of example, actual daily physical presence, use, and occupancy of the recreational vehicle.

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- (126) *Recreational vehicle park* means a parcel of land specifically developed for locating recreational vehicles, travel trailers, mounted camper units, motor homes, tiny houses, and camping trailers; and may also include tents erected for periods not exceeding 30 days for recreational or vacation purposes. Within such a park, a sanitary waste station may be allowed by a special use permit for the purpose of removing and disposing of waste from a self-contained camping vehicle's sewage holding tanks. All recreational vehicle parks shall comply with the Colorado Department of Health Standards and Regulations for campgrounds and recreation areas in addition to the requirements set forth in the Kiowa Municipal Code, except where the two conflict, the Kiowa Municipal Code shall govern.
- (127) *Recycling facility* means a building or lot used for the collection and/or processing of recyclable material including, but not limited to glass, metal, paper, plastic and oil. Processing shall mean the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building or buildings with no outside storage, shall be considered a warehouse.
- (128) *Religious assembly, place of* means a use category comprised of structures or places in which regular worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained and controlled under the direction of a religious group. Accessory uses include, but are not limited to, school facilities, parking, caretakers' housing, pastors' housing, day care and group living facilities, such as convents. Examples include churches, temples, synagogues and mosques.
- (129) *Restaurant* means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state; that may be licensed to produce and sell fermented malt beverages as an accessory use, or to sell fermented malt beverages, vinous and spirituous liquors for consumption on the premises; and from which service of food and beverages may be made from a drive-through facility, at a counter or at a table.
- (130) *Retail business shops or activities* means a business that sells products or services to the final user or consumer who would not be purchasing for resale. The products or services are sold online, in-store, or over the phone. The aim of the retail business is to meet the daily needs of the community.
- (131) *Riding academy* means an establishment where horses and ponies are boarded and cared for, where instruction in riding, jumping, and showing may be offered, or where the general public, for a fee, may hire horses for riding.
- (132) *Salvage or wrecking yard* means a place where motor vehicles and parts are wrecked, disassembled, repaired and resold; a place where secondhand goods including waste paper, bottles, automobile tires, clothing, other scrap materials and salvage are collected to be stored; and a place where used lumber and used building materials are stored for sale or resale.

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- (133) *Sawmill (saw mill, saw-mill) or lumber mill* means a facility where logs are cut into lumber.
- (134) *Self-service storage facilities* means a building or a group of buildings containing separate, individual self-storage units divided from the floor to ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment. If sold by condominium plat, assigned parking and signage for each unit shall be a condition of plat approval.
- (135) *Service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition. A service animal that is not otherwise defined as equine or livestock shall be exempt from any numerical limitations on animals set forth herein.
- (136) *Setback* means the minimum distance that a structure can be built from the property line and defines the buildable area of the lot designed to protect properties and ensure uniformity in neighborhoods.
- (137) *Short term rental* is a residential dwelling unit available for rent for a period ranging from 1 to 29 days and requires a host to get a license to offer a short-term rental in their primary residence. Primary residence means the place in which a person's habitation is fixed for the term of the license and is the person's usual place of return. A person can have only one primary residence in Kiowa.
- (138) *Single-family residence* means a detached principal building designed as a dwelling unit for the use and occupation of not more than one (1) family and which is neither a manufactured home nor a factory-built home as defined by this Code.
- (139) *Solar energy flush roof mounted* means solar panels and appurtenances mounted on roof tops parallel to the roof top with no more than a two-foot separation between the roof top and solar panels.
- (140) *Solar energy ground mounted* means one or more solar panels and appurtenances mounted from the ground or other structures not considered a roof top.

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- (141) *Special use permit* means a permit issued by the Planning Commission, following notice and a public hearing, to undertake a use not included as permitted in the applicable zone district or as a use requiring a special use permit as set forth in this Chapter.
- (142) *Studio apartment* means an attached dwelling unit not greater than 650 square feet in size consisting of a single room for cooking, eating, sleeping and living, and a separate room for bath and toilet facilities.
- (143) *Street* means a public thoroughfare which affords the principal means of access to abutting property.
- (144) *Structure* means anything constructed or erected that is not primarily intended to be mobile, but not including poles, lines, cables or other transmission or distribution facilities of public utilities, mailboxes and light fixtures.
- (145) *Substantial improvement* means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: (a) before the improvement or repair is started; or (b) before damages occurred if the structure is damaged.
- (146) *Tavern/bar* means an establishment serving malt, vinous and spirituous liquors in which the principal business is the sale of such beverages at retail, for consumption on the premises, and where sandwiches and light snacks are available for consumption on the premises.
- (147) *Therapy animal* means an animal provided by prescription or otherwise, that is used to provide comfort and affection to a person other than its handler and is not specifically trained to address a specific need of a disabled person. A therapy animal that is not otherwise defined as equine or livestock shall be exempt from any numerical limitations on animals set forth herein.
- (148) *Townhouse* is defined as a single-family home with at least two floors that share a wall with another house and each townhouse is individually owned.
- (149) *Truck stop* means an establishment engaged primarily in fueling, servicing, repair or parking tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.
- (150) *Usable open space* means open space designed for use as common areas, including, but not limited to parks, recreation areas, gardens, paths, walkways and trails. The term shall not include space devoted to streets and parking and loading areas, areas with slopes greater than 30 percent, land under water, lands within critical wildlife habitat areas, lands within riparian areas and 100-year floodplains that are preserved as open space, unless specifically designated as usable open space by the town because of its recreation, wildlife or other aesthetic value.
- (151) *Use* means the purpose for which land, or a building is designed, arranged or intended, or for which either is or may be occupied or maintained.

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- (152) *Variance* means authorization for an applicant to depart from the requirements of this zoning code. The purpose of a variance is to allow a property owner to initiate or maintain a use that would otherwise constitute a violation of this zoning code.
- (153) *Veterinary clinic* means any establishment which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal disease. A pet animal facility may be allowed as an accessory use by special use permit.
- (154) *Warehouse and distribution* mean a use engaged in storage, wholesale, and distribution or delivery of manufactured products, supplies, equipment or packages, including accessory offices or showrooms, including incidental retail sales.
- (155) *Water reservoir* means an enlarged lake or body of water behind a dam, usually built to store fresh water, often doubling for hydroelectric power generation. Reservoirs are created by controlling a watercourse that drains an existing body of water, interrupting a watercourse to form an embayment within it, excavating, or building any number of retaining walls or levees to enclose any area to store water.
- (156) *Wireless telecommunications equipment* means any equipment used to provide wireless telecommunications services, but which is not affixed to or contained within a wireless telecommunications facility but is instead affixed to or mounted on an existing building or structure that is used for some other purpose. Wireless telecommunications equipment also includes a ground mounted base station used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.
- (157) *Wireless telecommunications facility* means any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunications services, and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services.
- (158) *Wireless telecommunication services* mean services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless telecommunications, personal communication services or cellular telephone.
- (159) *Yard* means an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter.
- (160) *Yard, front* means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.
- (161) *Yard, rear* means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.
- (162) *Yard, side* means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building or accessory building attached thereto.
- (163) *Zoning code, town code, or code* means the Town of Kiowa's zoning code found in Chapter 16 of the Kiowa Municipal Code, as may be amended from time to time.

ARTICLE II - ZONING MAP AND DISTRICT BOUNDARIES

16-2-10. Map adopted.

The official zoning district map of the Town of Kiowa, together with all explanatory material thereon, is adopted by reference and declared to be a part of this zoning code.

16-2-20. Map location and identification.

The official zoning district map shall be located in the office of the town clerk and shall be identified by the signature of the mayor, attested to by the town clerk, and shall bear the seal of the town under the following form of certification:

"CERTIFICATION: This is the Official Zoning District Map of the Town of Kiowa, Colorado, adopted pursuant to Ordinance No. ___, and referred to in Chapter 16 of the Kiowa Municipal Code."

16-2-30. Map changes.

No change shall be made in the district boundaries or other matter shown on the official zoning district map except as allowed by ordinance. Changes may supplement a previously adopted Official Zoning District Map.

16-2-40. Map replacement.

In the event that the official zoning district map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Trustees shall, by ordinance, adopt a new official zoning district map which shall supersede the prior official zoning district map.

16-2-50. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the official zoning district map, the following rules shall apply:

- (1) Boundaries approximately following the centerline of streets or roads shall be construed to follow such centerlines.
- (2) Boundaries approximately following parcel lines shall be construed as following such parcel lines.
- (3) Boundaries indicated as approximately following the town limits shall be construed as following town limits.
- (4) Boundaries indicated as parallel to or extensions of features indicated in subsections (1), (2), and (3) of this Section shall be construed consistent with those subsections.
- (5) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning district map or in circumstances not covered by this Section, the Planning Commission shall interpret the district boundaries.

16-2-60. Significance of districts—Listing of uses.

No use shall be allowed as a use by right within any zone district unless it is specifically enumerated in the zone district as a permitted use. Uses not listed which are consistent with the listed uses and which impose no greater impacts on the need for services and adjacent properties, are permitted upon issuance of a special use permit approved by Planning Commission or Board of Trustees, pursuant to this Chapter.

ARTICLE III - AMENDMENTS TO ZONING CODE AND OFFICIAL ZONING DISTRICT MAP

16-3-10. Authority.

The regulations, restrictions, and district boundaries set forth in this Chapter may, from time to time, be amended, supplemented, changed, modified, or repealed by the Board of Trustees, as provided by law and in accordance with the procedures set forth in this Chapter.

16-3-20. Initiation of amendments to text of the zoning code.

(1) Clerical corrections:

- (a) The town administrator, in consultation with the town attorney, may make administrative determinations regarding any clerical corrections or errors in this Chapter without obtaining approval of the Board of Trustees.

(2) Supplementation and minor changes:

- (a) The Board of Trustees may approve, by ordinance, minor and supplementary changes to the text of the zoning code by legislative determination of the Board of Trustees, in the manner required for adopting ordinances, with the exception of an added review and recommendation to the Board of Trustees by the Planning Commission at a duly noticed public meeting. The changes to this Chapter contemplated by this subsection are to provide clarity, when necessary, and shall not result in changes to uses that are expressly allowed or prohibited herein or that would create a nonconformity.

(3) Major amendments:

- (a) Major amendments to the text of this Chapter result in changes to expressly allowed or prohibited uses, create nonconforming uses or structures, rezone property, or change zoning district boundaries. Proposed major amendments to the text of this Chapter shall be reviewed by the Planning Commission, which shall provide its recommendation to the Board of Trustees. The Board of Trustees may, by ordinance, approve a major amendment only after the major amendment is considered by the Board of Trustees at a public hearing. Notice for the public hearing must be published in a newspaper of general circulation in the Town at least fourteen (14) days prior to the public hearing date, and the notice must provide a comprehensive statement of the proposed major amendment to the text.

16-3-30. Comprehensive zoning map amendment.

Comprehensive amendments of all or a large part of the zone district designations and boundaries shown on the official zoning district map shall be accomplished by legislative

determination of the Board of Trustees following review and recommendation by the Planning Commission. The Board of Trustees may, by ordinance, approve a comprehensive revision to the zone district designations and boundaries only after the new zoning district map is considered by the Board of Trustees at a public hearing. Notice for the public hearing must be published in a newspaper of general circulation in the Town at least fourteen (14) days prior to the public hearing date, and the notice must provide a clear statement describing the proposed changes to the zoning map and that a copy of the proposed zoning map is on file with the Town Clerk for public review. In addition, the proposed official zoning map shall be made available for public inspection in the town hall during regular business hours for fourteen (14) days prior to the public hearing on such revisions.

16-3-40. Zoning amendment process.

Amendments to the official zoning district map affecting individual or small groups of properties may be initiated by the Board of Trustees, town staff, the Planning commission, or by a real property owner in the area to be included in the proposed zoning amendment. Revisions of zone district designations and boundaries shown on the official zoning district map affecting individual or small groups of properties shall be accomplished through the following notice and hearing process, and by ordinance adopted by the Board of Trustees.

- (1) Preapplication conference. The applicant shall attend a preapplication conference with a representative of the town. The purpose of the meeting is to discuss the proposed zoning amendment, submittal requirements and review process.
- (2) Zoning amendment application submittal. The applicant shall submit to the town the complete zoning amendment application package, including a check made payable to the Town of Kiowa based upon the current Town Fee Schedule, containing the following enumerated items in an electronic format acceptable to the department, together with one paper copy of the application package for the file, and shall request that the application be reviewed by the Planning Commission and Board of Trustees.
 - (a) A completed land use application.
 - (b) A legal description for all property to be considered for rezoning.
 - (c) Current proof of ownership of the property to be considered for rezoning in the form of title insurance policy or a title commitment issued within 30 days of submission of the application.
 - (d) A zoning amendment map of the area included in the proposed change, 24 inches high by 36 inches wide, with the following information:
 - i. North arrow, scale (1 inch = 100 feet or 1 inch = 200 feet), and date of preparation;
 - ii. The subdivision name or block and lot number of the area to be zoned (if applicable) at the top of each sheet;

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- iii. Legal description of area to be zoned (entire area and individual zone districts). For unsubdivided property, district boundaries shall be determined by a metes and bounds description;
 - iv. Location and boundaries, including dimensions, of the property(s) proposed for rezoning. Note: Generally, district boundaries are to be boundary lines of subdivided parcels or the center lines of physical streets, roads, highways, alleys, railroad rights-of-way, and channelized waterways, or such lines extended along an imaginary line;
 - v. The acreage or square footage of the property(s) proposed for rezoning;
 - vi. All existing land uses in the area proposed for rezoning;
 - vii. Zoning and existing land uses on all lands adjacent to the area proposed for rezoning;
 - viii. The location and dimensions for all existing public rights-of-way including streets, and centerlines of water-courses within and adjacent to the area proposed for rezoning;
 - ix. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided; and
 - x. Certificate and signature blocks for the surveyor, Planning Commission, and the Board of Trustees.
- (e) A written statement describing the proposal and addressing the following points:
- i. Need for the proposed rezoning;
 - ii. Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area;
 - iii. Impact of the proposed change on area accesses and traffic patterns;
 - iv. Availability of utilities for any potential development or change in use;
 - v. Present and future impacts on public facilities and services, including, but not limited to, fire, police, water, sanitation, roadways, parks, schools, and transit;
 - vi. The relationship between the proposal and the Town's comprehensive plan; and
 - vii. Public benefits arising from the proposal which addresses the benefit to the general public, rather than the benefit to a single landowner, which could be considered to be spot zoning and is prohibited in Colorado.
- (f) Adjacent property ownership report. Applicant shall submit a current list (not more than 30 days old) of the names and addresses of adjacent property owners, within 300 feet of the property being considered for rezoning. The applicant shall certify that the report is complete and accurate.
- (g) Public hearing notification envelopes. Applicant shall provide two sets of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the town's address as the return address and the envelopes shall be addressed to adjacent

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- property owners and the appropriate referral agencies as designated by the town. It is the applicant's responsibility to ensure that accurate and complete information is provided.
- (3) Zoning amendment application certification of completion. Within a reasonable period of time, the town administrator or the town administrator's designee shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the town. The original application and all documents requiring a signature shall be signed in ink.
 - (4) Final staff review and report to Planning Commission. The staff shall complete a final review of the completed application and prepare a report to the Planning Commission explaining how the application is or is not consistent with the criteria for amendments to the official zoning district map set forth below.
 - (5) Set zoning amendment public hearing and complete public notification process. The town administrator or the town administrator's designee shall send notice of the hearing to the applicant, adjacent property owners, and to the appropriate referral agencies, not less than fourteen (14) days before the initial Planning Commission hearing on the application. Notice of the hearing shall be mailed, published, and posted on the subject property pursuant to the notice requirements set forth in this zoning code. If the zoning amendment request accompanies another application that is scheduled for a public hearing before the Planning Commission or Board of Trustees, a joint public hearing may be held for both applications before each body.
 - (6) Planning Commission public hearing and action on the zoning amendment. The Planning Commission shall hold a public hearing to review the zoning amendment based on the criteria for amendments to the official zoning district map hereinafter set forth. The Planning Commission shall then make a recommendation to the Board of Trustees to approve, conditionally approve, or deny the zoning amendment application.
 - (7) Revised application based on Planning Commission comments. If the Planning Commission recommends that the applicant amend the application, the applicant shall have the opportunity to make the suggested revisions based on the Planning Commission's comments and resubmit the application.
 - (8) Notify adjacent property owners. The town administrator or designee thereof shall provide notice of the Board of Trustees' public hearing on the application to adjacent property owners within 300 feet of the subject property as identified by the applicant pursuant to the notice requirements set forth in this zoning code.
 - (9) Board of Trustees' hearing and action on the zoning amendment. The Board of Trustees, after receiving the report and recommendation from the Planning Commission and staff, shall hold a public hearing on the proposed zoning amendment. Notice of the public hearing shall be published pursuant to the notice requirements set forth in this zoning code. The parcel for which such zoning amendment is sought shall be posted by sign pursuant to the notice requirements set forth in this zoning code.

The Board of Trustees shall consider the comments and evidence presented at the hearing, the recommendation of Planning Commission, and shall evaluate the application in accordance with the criteria set forth in section 16-3-50 hereof, and either deny the application in whole or part by resolution, or by ordinance approve the application or approve it with conditions.

- (10) Post approval actions. Upon approval by the Board of Trustees of an amendment to the official zoning district map, the town clerk shall promptly cause an appropriate revision of the official zoning district map to be prepared for approval by the Board of Trustees and recording with the Elbert County Clerk and Recorder.

16-3-50. Criteria for amendments to the official zoning district map.

For the purpose of establishing and maintaining sound, stable, and desirable development within the town, the official zoning district map shall not be amended except:

- (1) To correct a manifest error in an ordinance establishing the zoning for a specific property; or
- (2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the town generally; or
- (3) When the land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the town's land use code or the comprehensive plan, whichever was last updated; or
- (4) When the proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the land use code or comprehensive plan, whichever was last updated, and the rezoning will be consistent with the policies and goals of the comprehensive plan; or
- (5) When the area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area.

This declaration of criteria for zoning map amendments shall not apply to amendments that occur as part of a comprehensive revision to the text of the zoning code or official zoning district map accomplished by legislative action of the Board of Trustees. The creation of overlay districts that supplement an underlying zoning district shall be exempt from this criteria.

16-3-60. Map amendment upon zoning establishment or modification.

Upon adoption of any ordinance annexing and establishing zoning or modifying existing zoning for any property, the town shall amend the official zoning district map to include the annexed area with the proper zoning classification or to show the amended classification, as the case may be. The official zoning district map shall contain, in tabular form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

ARTICLE IV - ZONING DISTRICTS

16-4-10. Establishment of Zoning Districts.

In order to carry out the provisions of this Article, provision is hereby made for the division of the Town into the following zoning districts:

- R-1 Residential
- R-2 Multiple Residential
- R-3 High Density Residential
- C-1 Retail Business
- MU Mixed Use Retail District
- C-2 Wholesale/Retail Business
- A-1 Agriculture
- I-1 Light Industry
- I-2 Heavy Industry
- I-3 Athletic Fields
- F Floodplain
- M-1 Mobile Home Parks
- M-2 Overnight Camping Parks
- PL-1 Schools and Public Lands
- PD Planned Development

The Town is divided into such of the aforesaid districts as are shown on the map entitled "Official Zoning District Map of Kiowa."

16-4-20. R-1 Districts; permitted uses.

- (1) The following uses shall be permitted in the R-1 District:
 - (a) Single-family residence;
 - (b) Park;
 - (c) Library; and
 - (d) Church.
- (2) The following use shall be permitted by special review in the R-1 District: day-care facility.

16-4-30. R-2 Districts; permitted uses.

- (1) The following uses shall be permitted in the R-2 District:
 - (a) Any use permitted in the R-1 District;
 - (b) Duplex residences; and
 - (c) Boarding and rooming houses.
- (2) The following use shall be permitted by special review in the R-2 District: day-care facility.

16-4-40. R-3 Districts; permitted uses.

- (1) The following uses shall be permitted in the R-3 District:
 - (a) Any use permitted in the R-2 District;
 - (b) Apartment houses of a density not exceeding fifteen (15) per acre; and
 - (c) Rest homes not exceeding a density of fifteen (15) per acre.
- (2) The following use shall be permitted by special review in the R-3 District: day-care facility.

16-4-50. C-1 Districts; permitted uses.

- (1) The following uses and similar uses shall be permitted in the C-1 District:
 - (a) Retail business shops;
 - (b) Intercity bus terminal;
 - (c) Parking lots;
 - (d) Professional offices;
 - (e) Service stations and vehicle repair shops;
 - (f) Small animal veterinarian clinics, excluding hooved animals; and
 - (g) Private schools.
- (2) The following uses shall be permitted by special review in the C-1 District:
 - (a) Caretaker residence;
 - (b) Single-family residence; and
 - (c) Church.

16-4-60. MU Districts; permitted uses.

- (1) Intent. The Mixed Use (MU) District seeks to allow mixed use development consisting of combined commercial uses and residential uses that provides for consistency with the nature and character of the Town and allows such mixed uses in a manner that is compatible with the adjacent land uses.
- (2) Permitted uses. The following uses and similar uses shall be permitted in the MU District:
 - (a) Any use permitted in the C-1 District, with the exception of parking lots, intercity bus terminals and bars/taverns, so long as the commercial uses are combined with a residential use; provided, however, that the commercial component of any mixed use permitted herein shall not be less than fifty percent (50%) of the total buildable area of the zoned property;
 - (b) Offices, including general, medical, dental, professional and governmental offices;
 - (c) Art galleries;
 - (d) Assisted living and independent care living facilities;
 - (e) Cultural facilities such as museums and libraries;

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- (f) Any other retail business activities, excluding paint stores and sexually oriented businesses; and
 - (g) Any use permitted in the R-3 District, so long as it is combined with a commercial use; provided, however, that the residential component of any mixed use permitted herein shall be required to have a minimum of six hundred (600) square feet of living space per dwelling unit, and may not exceed fifty percent (50%) of the total buildable area of the zoned property.
- (3) Development standards. All new construction within the MU District that is located with frontage on State Highway 86 shall be designed with an "Old West" style of architecture that is consistent with the nature and character of the Town business district.

16-4-70. C-2 Districts; permitted uses.

- (1) The following uses and similar uses shall be permitted in the C-2 District:
- (a) Any use permitted in the C-1 District;
 - (b) Building materials at wholesale;
 - (c) Dairy processing plants;
 - (d) Frozen food locker plant;
 - (e) Greenhouses;
 - (f) Lumber yard;
 - (g) Mortuary;
 - (h) New and used car sales and body shops;
 - (i) Storage of construction machinery not to exceed thirty (30) days; and
 - (j) Warehouses; and
 - (k) Sexually oriented businesses, subject to the provisions contained in Article V of Chapter 6 of this Code, and subject to the following conditions:
 - i. Sexually oriented businesses shall be located no less than one hundred and fifty (150) feet from the following:
 - 1. Area zoned for residential use.
 - 2. Single-family, two-family or multi-family dwelling.
 - 3. Church.
 - 4. Licensed day-care facility.
 - 5. School or educational facility, serving persons age eighteen (18) or younger.
 - ii. Sexually oriented businesses shall also be located a minimum of one hundred and fifty (150) feet from any other sexually oriented business.
 - iii. Distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. Distance between any sexually oriented business and

any church, school, day-care facility, dwelling unit or residential district shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted to the nearest property line of the premises of a church, school, day-care facility or dwelling unit, or the nearest boundary of a residential district.

(2) The following uses shall be permitted by special review in the C-2 District:

- (a) Caretaker residence;
- (b) Single-family residence; and
- (c) Church.

16-4-80. A-1 Districts; permitted uses.

(1) The following uses shall be permitted in the A-1 District:

- (a) Agriculture with or without animals;
- (b) Dog kennels;
- (c) Horse race tracks;
- (d) Park; and
- (e) Stables and riding academies.

16-4-90. I-1 Districts; permitted uses.

(1) The following uses and similar uses shall be permitted in the I-1 District:

- (a) Light industry;
- (b) Taxidermist; and
- (c) Large animal veterinary clinics, including hooved animals.

(2) The following uses shall be permitted by special review in the I-1 District: any use permitted in the R-3 District, so long as it is combined with a permitted industrial use in the I-1 District; provided, however, that the residential component of any mixed use permitted by special review herein shall be required to have a minimum of six hundred (600) square feet of living space per dwelling unit, and may not exceed fifty percent (50%) of the total buildable area of the zoned property.

16-4-100. I-2 Districts; permitted uses.

(1) The following uses shall be permitted in the I-2 District:

- (a) Any use permitted in the I-1 District; and
- (b) Heavy industry, excluding junkyards and landfills.

16-4-110. I-3 Districts; permitted uses.

(1) The following uses shall be permitted in the I-3 District:

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- (a) Athletic fields;
 - (b) Cemeteries;
 - (c) Golf course;
 - (d) Gravel pit; and
 - (e) Water or sewer treatment plant.

16-4-120. F Districts; permitted uses.

- (1) The following uses shall be permitted in the F District: Park.

16-4-130. M-1 Districts; permitted uses.

- (1) The following uses shall be permitted in the M-1 District:
 - (a) Mobile home parks;
 - (b) Mobile home sales in connection with a mobile home park;
 - (c) Mobile home subdivisions;
 - (d) Mobile homes on individual lots which are separately owned;
 - (e) Playground or recreation building in connection with a mobile home park; and
 - (f) Manufactured homes or factory-built homes on individual lots which are separately owned.

16-4-140. M-2 Districts; permitted uses.

- (1) The following uses shall be permitted in the M-2 District:
 - (a) Camping park; and
 - (b) Motel or hotel.

16-4-150. PL-1 Districts; permitted uses.

- (1) The following uses shall be permitted in the PL-1 District:
 - (a) Fairgrounds;
 - (b) Parks;
 - (c) Public buildings;
 - (d) Public schools; and
 - (e) Public facilities.

ARTICLE V - DEVELOPMENT STANDARDS

16-5-10. Development standards.

Lots and structures in the various districts are limited as denoted in the following table:

Dist.	Min. Area	Min. Frontage	Max. Height	Min. Front Yard	Min. Side Yard	Min. Rear Yard
R-1	9000 sf	66'	35'	30'	10'	30'***
R-2	9000 sf	50'	35'	30'	10'	30'***
R-3	4000 sf	90'	35'	30'	15'	30'***
C-1	4500 sf	30'	35'	*	*	20'
MU	4500 sf	30'	35'	**	**	20'
C-2	1 ac.	125'	35'	50'	25'	50'
A-1	20 ac.	330'	35'	330'	150'	330'
I-1	1 ac.	65'	35'	50'	20'	50'
I-2	20 ac.	660'	35'	150'	150'	150'
I-3	10 ac.	500'	20'	100'	100'	100'
M-1	5 ac. ⁺	500'	20'	50'	100'	100'
M-2	5 ac.	250'	20'	50'	75'	75'
PL-1	2 ac.	100'	35'	100'	25'	25'
F	N/A	N/A	N/A	N/A	N/A	N/A
MB-1	4500 sf	30'	35'	10'	10'	20'
* The minimum side yard and minimum front yard setbacks shall be ten (10) feet, unless the property is located with frontage on State Highway 86 from the Kiowa Creek east to County Road 45 on the north side of State Highway 86, and from the Kiowa Creek east to Ute Street on the south side of State Highway 86, in which case no side or front yard setbacks shall be required.						

** The minimum side yard and minimum front yard setbacks shall be ten (10) feet, unless the property is located with frontage on State Highway 86 from the Kiowa Creek east to County Road 45 on the north side of State Highway 86, and from the Kiowa Creek east to Ute Street on the south side of State Highway 86, in which case no side or front yard setbacks shall be required.

*** Accessory buildings have a minimum rear yard setback of five (5) feet from the property line.

⁺ Minimum lot or stall size for an individual mobile home unit is 4,000 square feet.

16-5-20. Standards and requirements.

The following standards and requirements shall govern and shall be applied in the review and consideration of the application for a planned unit development (PUD):

- (1) The PUD shall be consistent with the intent of the comprehensive plan and the policies therein, including the commercial and residential land use designations, and shall include references to specific provisions of the comprehensive plan when appropriate.
- (2) Every PUD shall include adequate, safe and convenient arrangements for pedestrian and vehicular circulation, off-street parking, loading space, and sidewalks.
- (3) The Board of Trustees may require such setbacks, lot widths, street widths and space between buildings as necessary to provide adequate access, fire protection and snow removal, to insure proper ventilation, light, air, snow storage and snow melt between buildings, and to insure that the PUD is compatible with other development in the area.
- (4) Open space for the PUD shall be planned to produce maximum usefulness to the residents of the development and the general public for purposes of recreation and scenery and to produce a feeling of openness. All areas designated as common or public open space pursuant to the requirements of this Article shall be accessible by proper physical and legal access ways.
- (5) Water and sewer service shall be provided by connection to central facilities, unless otherwise approved by the Board of Trustees, Kiowa Water & Wastewater Authority, the Colorado Department of Public Health, and the local health authorities.
- (6) The PUD shall be designed to provide necessary commercial, recreational, and educational facilities conveniently located to residential housing.
- (7) Clustered housing and other buildings shall be encouraged to promote maximum open space and economy of development and variety in type, design and layout of buildings.
- (8) The primary and accessory uses in the PUD zone district shall be proposed by the applicant for inclusion in the final PUD development plan.

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- (9) Applicant shall propose specific development standards, including, without limitation, setbacks, bulk plane, and encroachments, for the primary and accessory uses in the PUD to be included in the final PUD development plan.

16-5-30. Setback Requirements

Setbacks are measured from the property line on all sides of a lot, including the street side.

- (1) On corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.
- (2) Permanent features allowed within setbacks shall include:
 - (a) Cornices, canopies, eaves or other similar architectural features if they extend no more than two feet into a required setback and if they do not encroach into or overhang an easement.
 - (b) Steps or ramps to the principal entrance and necessary landings, provided they do not extend more than six feet into the required setback.
 - (c) Landscaping.
 - (d) Fences and walls, subject to height and other restrictions.
- (3) Side and rear setbacks for storage sheds less than 120 square feet in floor area shall be three (3) feet if the storage shed is not placed upon a permanent foundation and is easily moved as determined by the town administrator or the town administrator's designee.
- (4) For the purpose of minimizing traffic hazards at street intersections, improving visibility for converging vehicles and maintaining a sight triangle at such locations, no fence, structure, or landscaping over 36 inches above the adjacent street elevation shall be permitted to be placed, planted, or erected on any corner lot within the triangular portion of such lot measured from the point of intersection of the lot lines abutting the streets a distance of thirty (30) feet along each such lot line.

16-5-40. Development standards for mobile home parks.

- (1) The minimum lot area for a mobile home park shall be ten (10) acres.
- (2) Minimum width for roadways and driveways within a mobile home park shall be twenty-five (25) feet. An additional eight (8) feet shall be required for each parallel parking space adjacent thereto.
- (3) At least two off-street parking spaces shall be required for each dwelling unit within a mobile home park.
- (4) Streets, driveways and parking spaces within the mobile home park shall be paved, sufficiently illuminated to ensure the safety of park residents, and shall include sidewalks for pedestrians not less than three feet wide. Each space within a mobile home park shall have unobstructed vehicular access to a public street or highway.
- (5) Open space, including playgrounds, shall be provided within the mobile home park, the size of which shall be determined by the total number of spaces within the park, the density of the development and the availability of existing park or playground areas in the immediate vicinity of the mobile home park.

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- (6) A landscaping plan for the mobile home park shall be presented to and approved by the town providing for the landscaping and maintenance of the perimeter of the park, all common areas and open space within the park and the individual spaces for mobile homes within the park.

ARTICLE VI – [RESERVED]

ARTICLE VII - PARKING REQUIREMENTS

16-7-10. Parking space requirements.

- (1) The following uses shall be subject to the following parking space requirements:
- (a) *Residential*. Two (2) off-street parking spaces shall be provided for each dwelling unit.
 - (b) *Retail*. One (1) parking space for each two hundred (200) square feet of usable floor area.
 - (c) *Assembly halls*. For auditoriums, arenas, gymnasiums, exhibition halls, theaters, convention centers and other similar public gathering places, at least one (1) parking space for every four (4) seats, or one (1) parking space for each one hundred (100) square feet of usable floor area, whichever is greater.
 - (d) *Churches*. At least one (1) parking space for every four (4) fixed seats, or one (1) parking space for each one hundred (100) square feet of usable floor area, whichever is greater.
 - (e) *Lodging*. One (1) parking space shall be provided for each guest unit.
 - (f) *Offices*. One (1) parking space shall be provided for each two hundred (200) square feet of usable floor area.
 - (g) *Eating and drinking places*. At least one (1) parking space for every four (4) seats, or one (1) parking space for each fifty (50) square feet or usable floor area, whichever is greater.
 - (h) *Schools*. For high schools, nine (9) parking spaces shall be provided for each classroom, and for all other schools, one and one-half (1½) spaces shall be provided for each classroom.
 - (i) *Retail*. One (1) parking space shall be provided for each two hundred (200) square feet of usable floor area.
 - (j) *Warehouses*. One (1) parking space shall be provided for each five hundred (500) square feet of usable floor area.
 - (k) *Hospitals*. One (1) parking space shall be provided for each patient bed.
 - (l) *All other uses*. One (1) parking space shall be provided for each five hundred (500) square feet of usable floor area.
- (2) For the purpose of these parking space regulations, the term *parking space* shall be defined as an off-street, hard-surfaced, dust-free space designed and intended to be

occupied by a parked full-sized automobile. The size of the required parking spaces and the width of the vehicular circulation aisle within a parking area shall be as indicated in the table below, entitled Minimum Parking Standards:

Minimum Parking Standards

<i>Parking Angle</i>	<i>Stall Width</i>	<i>Stall Length</i>	<i>Aisle Width</i>
90°	10'—0"	20'—0"	25'—0" (two-way)
Parallel	10'—0"	24'—0"	20'—0" (two-way)
45°	10'—0"	20'—0"	16'—0" (one-way)
60°	10'—0"	20'—0"	15'—0" (one-way)
Accessible stall with access aisle	13'—0"	20'—0"	25'—0" (two-way)
Van accessible stall with access aisle	16'—0"	20'—0"	25'—0" (two-way)

- (3) Where there is a common driveway aisle, the lessee will be required to have a right to use one-half (½) of the aisle. Where parking would be abutting sidewalks, the parking lot is to be designed as not to protrude over any sidewalks.
- (4) Parking ratios:
 - (a) One (1) van accessible parking space is required for each parking lot, with one (1) additional van accessible space required for each two hundred (200) parking spaces provided.
 - (b) Accessible parking spaces shall be provided as follows:

<i>Number of Parking Spaces Provided</i>	<i>Number of Accessible Spaces Provided</i>
1—12	1

13—24	2
25—74	3
75—100	4
101—199	5
200—299	6
300—399	7
400 and above	8 plus 1 for each 200 additional parking spaces provided

(5) General provisions.

- (a) *Responsibility.* The duty to provide and maintain off-street parking areas shall be the joint and severable responsibility of the operator and owner of land uses and the land for which the off-street parking areas are required to be provided and maintained. All parking areas should be hard-surfaced and maintained free of holes.
- (b) *New structure uses.* For structures and/or uses established or placed into operation after the effective date of the ordinance codified herein, there shall be provided the number of off-street parking spaces set forth in this Section.

(6) Deviation. The Board of Trustees is hereby authorized to allow deviation from the parking standards created herein, subject to the following criteria:

- (a) The proposed deviation will not cause a shortage of parking for the property being considered, or for any adjacent property or use;
- (b) Strict application of the parking standards would cause a hardship to the property that would otherwise be subject to the parking regulations; and
- (c) The proposed deviation is in the best interests of the health, safety and welfare of the citizens of the Town.

16-7-20. Parking of recreational vehicles.

- (1) It shall be unlawful to park a recreational vehicle on Town streets and rights of way for more than forty-eight (48) hours in any seven (7) day period. For purposes of this restriction, merely moving a recreational vehicle to another portion of the Town street or right of way shall not commence a new forty-eight (48) hour period. In addition, such parking shall be subject to the following limitations:

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- (a) It shall be unlawful to park such recreational vehicle in such a manner so as to obstruct vehicular traffic on the travelled portion of the Town street or right-of-way; and
 - (b) It shall be unlawful to park such recreational vehicle in such a manner so as to make the adjacent sidewalk inaccessible for pedestrian traffic.
- (2) It shall be unlawful to park an occupied recreational vehicle on private property not specifically zoned to allow such a use for more than fifteen (15) days in any ninety (90) day period, unless specifically approved by the Board of Trustees.

ARTICLE VIII -PLANNED UNIT DEVELOPMENT

16-8-10. Purpose and scope.

- (1) The purpose of this Article is to permit the application of new technology, combinations of uses, and greater freedom of design in land development than may be possible under strict interpretation of the other provisions of this Chapter. The intent and purpose of this Article is to permit and encourage innovative design and high-quality master-planned developments through greater flexibility in the application of zoning and development standards. The density of uses and magnitude of development, however, must be of such design and scale to be appropriate and consistent with the character of the town and in harmony with the environment and surrounding neighborhood.
- (2) Any application for a planned unit development (PUD) may be submitted and processed simultaneously with the processing of the subdivision application for the same property.
- (3) Because a PUD is intended to be a combination of different uses (residential and commercial or residential/commercial/industrial), before requesting approval of a PUD zone district limited solely to residential uses, the applicant is encouraged to consider the utilization of existing residential zone districts as established by this zoning code in preference to a PUD in order to achieve this Chapter's purpose of a coordinated, adjusted and harmonious development of the town consistent with its established character. If a PUD zone district limited solely to residential uses is proposed, applicant shall state why existing zone districts could not be utilized for this development.
- (4) A PUD is expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design, and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.
- (5) The scope of review for a PUD by the town shall include architectural approval or control, limited to review consistency and compatibility with the environment, surrounding neighborhood and the town.
- (6) This Article is enacted pursuant to the Planned Unit Development Act of 1972 as amended, §§ 24-67-101, et seq., C.R.S., and the provisions of said Act as now enacted and as hereafter amended are hereby declared to be superseded by the provisions of this Article, § 24-67-107(1), C.R.S.

16-8-20. Criteria for evaluation.

The following criteria shall be utilized by the Planning Commission and the Board of Trustees in evaluating an application for approval of a PUD zone district:

- (1) *PUD development plan.* The application must include a PUD development plan that must provide for, but need not be limited to: primary and accessory uses; development standards; easements, covenants, and restrictions relating to use, location, and bulk of buildings and other structures; intensity of use or density of development; utilities; private and public streets, ways, roads, pedestrian areas, parking facilities, common open space, and other public facilities; and provisions for maintenance of both common and public property. Provisions of the PUD development plan means the written and graphic materials (which shall include architectural renderings) presented in support of the plan presented.
- (2) *Open space.* A minimum of 20 percent of the total PUD area shall be devoted to open air recreation or other usable open space that is public or quasi-public. Unusable open space, such as unusable drainage detention and conveyance areas, shall not be included in the required 20 percent. Usable open space shall be designed and intended primarily for the use and enjoyment of the residents, occupants, and owners of property within the PUD, but at least one-half of the usable open space within the PUD shall also be open to and accessible by the general public. *Usable open space* means open space designed for use as common areas, including, but not limited to parks, recreation areas, gardens, paths, walkways and trails. The term shall not include space devoted to streets and parking and loading areas, areas with slopes greater than 30 percent, land under water, lands within critical wildlife habitat areas, lands within riparian areas and 100-year floodplains that are preserved as open space, unless specifically designated as usable open space by the town Board of Trustees because of its recreation, wildlife or other aesthetic value.
- (3) *Residential density.* Density shall be limited as required by the Board of Trustees upon consideration of the comprehensive plan adopted in accordance with § 31-23-206(1), C.R.S., and individual characteristics of the subject land.
- (4) *Density of other uses.* The density of nonresidential uses shall be limited as required by the Board of Trustees upon consideration of the comprehensive plan and individual characteristics of the subject land.
- (5) *Architecture.* Each structure in the PUD shall be designed in such manner as to be consistent and compatible with other structures in the area, yet to avoid uniformity and lack of variety in structural designs within the PUD.
- (6) *Uses.*
 - (a) *Mixed uses.* The PUD shall be designed, insofar as practicable when considering the overall size of the PUD, to provide commercial, recreational, educational and transit amenities to its residents to lessen increased traffic and traffic congestion, and to increase walkability and sustainability of the PUD.
 - (b) *Types of uses.* A PUD may include any uses approved by the Board of Trustees as consistent with the comprehensive plan, this zoning code and the characteristics of the subject land, and as may be deemed compatible with other development in the area of the PUD.

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- (7) *Minimum area.* A PUD shall not be approved on a parcel of land less than five (5) acres in area.
- (8) *Maintenance of common property.* No PUD shall be approved unless the applicant confirms that the landowner has provided for or established an adequate organization for the ownership and maintenance of common open space, private streets, roads, ways, drives, pedestrian areas and parking facilities within the PUD (hereinafter collectively referred to as "common property"). In the event that the organization established to own and maintain such common property, or any successor organization, shall at any time after approval of the PUD fail to maintain the common property in reasonable order and condition in accordance with the PUD development plan, the following procedures may be initiated by the town.
- (a) The town may serve written notice upon the maintenance organization or upon the residents of the PUD setting forth the maintenance deficiencies. The notice shall include a demand that such deficiencies of maintenance be cured within twenty-eight (28) days thereof, and shall state the time, date and place of a hearing thereon before the Town which shall be held within fourteen (14) days of the date of notice.
 - (b) At such hearing, the town may modify the terms of the original notice as to deficiencies, including granting an extension of time within which they shall be cured.
 - (c) If the maintenance deficiencies set forth in the original notice or in the modifications thereof are not cured within said twenty-eight (28) days or any extension thereof, the town, in order to protect the public health, safety and welfare, ensure the benefits or services intended, preserve the taxable values of the properties within the PUD and to prevent the common property from becoming a public nuisance, may enter upon the common property and maintain the same for a period of one year. Such entry and maintenance shall not vest in the public any rights to use the common property except when it is dedicated to the public by the owners.
 - (d) Prior to the expiration of the year of town maintenance, the Board of Trustees shall call a public hearing upon notice to the organization responsible for the maintenance of the common property, and to the residents and property owners of the PUD, at which hearing such organization and the property owners shall show cause why such maintenance by the town shall not, at the election of the Board of Trustees, continue for a succeeding year. If the Board of Trustees shall determine that a responsible organization is ready and able to maintain the common property in reasonable condition, the town shall cease to maintain the common property at the end of said year. If the Board of Trustees shall determine that a responsible organization is not ready and able to maintain the common property in a reasonable condition, the town, in its discretion, may continue to maintain the common property during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.
 - (e) The cost of maintenance of such common property by the town, plus a surcharge determined by the Board of Trustees in its sole discretion, but not to exceed five percent of the cost of maintenance, shall be assessed to and paid by the owners of properties within the PUD that have a right of enjoyment of the common property.

Any unpaid assessments shall become a tax lien on said properties. The town shall file a notice of such lien in the office of the Elbert County Clerk and Recorder upon the properties affected by such lien within the PUD and shall certify such unpaid assessments to the board of county commissioners and the county treasurer for collection, enforcement, and remittance in the manner provided by law for the collection, enforcement, and remittance of general property taxes.

- (f) The requirements for maintenance of common property shall be deemed conditions of approval of every PUD, even though the PUD plan may fail to incorporate or recite them. The authority of the town to maintain such common property in a PUD shall be in addition to any other right or remedy, including but not limited to actions for breach of contract, violations of the Kiowa Municipal Code and the PUD development plan, or nuisance.
- (9) *Consent of landowners.* No PUD may be approved by the Board of Trustees without the written consent of all of the landowners whose properties are included within the PUD. All owners of land within the proposed PUD shall sign each application form requesting consideration or approval of any PUD. Subsequent amendment or modification of a PUD zone district shall not require the consent of all landowners within the PUD but shall require notice and hearing as provided in section 16-8-180. Amendment to PUD, before such amendment or modification is enacted.

16-8-30. Procedure generally.

The provisions set forth in sections 16-8-50 through 16-8-200 shall be observed when an application for PUD approval is submitted for consideration. A PUD application may be considered concurrently with an application for approval of a subdivision preliminary plan.

16-8-40. Preapplication conference.

A preapplication conference shall be held with the Planning Commission for the purpose of establishing general considerations and comments, guidelines and eliciting direction regarding a proposed PUD. The preapplication conference is a vehicle intended to provide the applicant with general guidance and knowledge of the acceptability of any proposed PUD prior to the expenditures of large amounts of time and money in the planning effort.

16-8-50. PUD sketch plan—Requirements.

After the preapplication conference, and at least sixty days prior to the Planning Commission meeting at which it is to be considered, an applicant shall submit to the town in an electronic format acceptable to the town a completed PUD sketch plan application form, the overall PUD development sketch plan, supplemental PUD application information and the proposed PUD development plan (all of these submissions shall be collectively referred to herein as the "PUD sketch plan"). One paper copy of the PUD sketch plan shall also be submitted for the file. The PUD sketch plan shall include all materials and information required by the subdivision regulations for a subdivision sketch plan application, and the following information in conceptual or schematic design or report form:

- (1) Reasons PUD procedure is more desirable than conventional zoning;
- (2) Proposed land uses, building locations and housing unit densities;
- (3) Proposed development standards for the PUD;

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- (4) Proposed circulation pattern indicating the status of street ownership;
 - (5) Proposed open space and common property uses, including verification by a professional land surveyor that the 20 percent open space requirement is met;
 - (6) Proposed grading and drainage pattern;
 - (7) Proposed method of water supply and sewage disposal (Note: Booster stations and lift stations are discouraged);
 - (8) Economic and supporting data to justify any proposed commercial and industrial elements in an area not so zoned;
 - (9) Relation of the proposed PUD to the surrounding area and comprehensive plan;
 - (10) Proposed schedule of PUD phasing;
 - (11) Proposed easements, covenants, conditions and restrictions;
 - (12) Copies of documents that provide for the creation of an acceptable entity and program for the continuing maintenance of common property within the PUD, such as an owner's association or metropolitan district, and that detail the type of organizational structure responsible for such ongoing maintenance;
 - (13) Draft environmental impact report, unless applicant has requested and has been granted a waiver by the Planning Commission at the preapplication conference;
 - (14) Statement by a qualified professional as to the impact of the proposed PUD upon the public school system;
 - (15) Statement by a qualified professional of the estimated demands for services provided for by the town, including, but not limited to, utilities, transportation network, park and recreation, and law enforcement;
 - (16) Statement by a qualified professional of the projected town sales, use and property tax revenue based upon the previous year's tax levy, and a schedule of projected receipts of that revenue;
 - (17) Conceptual plans of all architectural forms anticipated for development within the PUD;
 - (18) Statement by a qualified professional of the estimated demands for fire protection and ambulance service;
 - (19) "Will serve" letters from providers of utility services not provided by the town that are specific to the proposed development in the PUD a full buildout;
 - (20) Statement by a qualified professional as to the impact of the proposed PUD upon wildlife; and
 - (21) Any other documents or materials deemed necessary by the town for review of this application.

16-8-60. PUD sketch plan—Referral.

Prior to consideration of the PUD sketch plan by the Planning Commission, the town shall distribute for comment, copies of the PUD sketch plan to the town administrator, town attorney,

town engineer, public works director, planning department, and other referral agencies as required by the subdivision regulations or as otherwise deemed appropriate by the town.

16-8-70. PUD sketch plan—Criteria for review by Planning Commission.

The Planning Commission shall review and consider the PUD sketch plan and comments from referral agencies at a public meeting (PUD sketch plan review meeting), or in its discretion, at a public hearing noticed per Section 16-22-80. To recommend to the Board of Trustees approval of the PUD sketch plan, the Planning Commission must find that:

- (1) There are special physical conditions or objectives that the PUD will satisfy to warrant a departure from standard zoning code and the PUD is being requested to encourage innovative and creative design and to promote a mix of land uses;
- (2) The PUD will not be inconsistent with the comprehensive plan objectives, unless the Planning Commission determines that the character of the neighborhood has changed since the comprehensive plan was last adopted or that the comprehensive plan was based on erroneous assumptions;
- (3) The areas adjacent to the proposed PUD can be planned to be in substantial harmony with the proposed PUD;
- (4) The adjacent and nearby areas will not be detrimentally affected by the proposed PUD;
- (5) The proposed PUD can be completed within a reasonable period of time;
- (6) Any proposed commercial or industrial development can be justified economically;
- (7) The proposed streets are adequate to support the anticipated traffic and the development will not overload the existing streets outside the PUD or there is adequate provision in the PUD development plan for improvement thereof;
- (8) Proposed public improvements, including utilities and drainage facilities, are adequate to serve the PUD; and
- (9) The PUD development plan, including permitted uses and development standards for the PUD, is acceptable.

16-8-80. PUD sketch plan—Action by Planning Commission.

Within 45 days after the Planning Commission reviews the PUD sketch plan at a public meeting or public hearing, the Planning Commission shall:

- (1) Table the PUD sketch plan for a period not to exceed 95 days from the date of the public meeting or public hearing for additional study, to obtain additional necessary information, or to have the applicant revise the application or PUD development plan;
- (2) Recommend the Board of Trustees approve the PUD sketch plan as submitted, with certain conditions as specified by the Planning Commission, if any; or
- (3) Recommend the Board of Trustees deny the PUD sketch plan, or certain portions thereof, with all reasons for such recommendation clearly stated.

16-8-90. PUD sketch plan—Action by Board of Trustees.

After receiving the Planning Commission's recommendations, the Board of Trustees shall consider the PUD sketch plan and the Planning Commission's recommendations at a public

meeting before the Board of Trustees. Based on the same criteria set forth for PUD sketch plan review by the Planning Commission in section 16-8-80, the Board of Trustees shall:

- (1) Approve the PUD sketch plan as submitted, with certain conditions as specified by the Board of Trustees, if any;
- (2) Deny the PUD sketch plan as submitted, or certain portions thereof, with all reasons for denial clearly stated. An application for a PUD preliminary plan shall not be accepted following denial of a PUD sketch plan;
- (3) Table the PUD sketch plan for a period of not more than 60 days for additional study, to obtain additional necessary information, or to have the applicant revise the application or PUD development plan; or,
- (4) Refer the PUD sketch plan back to the Planning Commission with specific instructions for additional study and recommendations, for a period not to exceed 60 days.

16-8-100. PUD preliminary plan—Requirements.

Sixty (60) days prior to the Planning Commission meeting at which it is to be considered, an applicant shall submit to the town in an electronic format acceptable to the town the completed PUD preliminary plan application form, the overall PUD development preliminary plan, the supplemental PUD application information, and the proposed PUD development plan (all of these submissions shall be collectively referred to herein as the "PUD preliminary plan"). One paper copy of the PUD preliminary plan shall also be submitted for the file. The PUD preliminary plan shall include all materials and information required by the subdivision regulations for a subdivision preliminary plan application, all of the information for the PUD sketch plan set forth in section 16-8-50, plus the following information:

- (1) A complete environmental impact study; and
- (2) Any information requested or required by the Board of Trustees as part of its approval of the PUD sketch plan.

16-8-110. PUD preliminary plan—Referral.

Prior to consideration of the PUD preliminary plan by the Planning Commission, the town shall distribute for comment, copies of the PUD preliminary plan to the town administrator, town clerk, town attorney, town engineer, public works, town planning, and other referral agencies as required by the subdivision regulations or as otherwise deemed appropriate by the Town.

16-8-120. PUD preliminary plan—Review by Planning Commission.

The Planning Commission, at a public hearing noticed pursuant to Section 16-22-80, shall review the PUD preliminary plan based on the same criteria for review of the PUD sketch plan as set forth in Section 16-8-70, and the conditions of approval set forth in the Board of Trustees' approval of the PUD sketch plan.

16-8-130. PUD preliminary plan—Action by Planning Commission.

Within 45 days after the Planning Commission considers the PUD preliminary plan at a public hearing, the Planning Commission shall:

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- (1) Table the PUD preliminary plan for a period not to exceed 95 days from the date of the public hearing for additional study, to obtain additional necessary information, or to have the applicant revise the application;
 - (2) Recommend the Board of Trustees approve the PUD preliminary plan as submitted, with certain conditions as specified by the commission, if any; or
 - (3) Recommend the Board of Trustees deny the PUD preliminary plan, or certain portions thereof, with all reasons for such recommendation clearly stated.

16-8-140. PUD preliminary plan—Action by Board of Trustees.

At a public hearing after receiving the recommendations from the Planning Commission on the PUD preliminary plan, the Board of Trustees shall consider the PUD preliminary plan and the commission's recommendations. The public hearing on the PUD preliminary plan before the Board of Trustees shall afford procedural due process to all interested parties. Public notice of the public hearing shall be given in the manner prescribed in section 16-22-80 for approval of a PUD preliminary plan, including the additional requirement that written notice of the public hearing be delivered or mailed, first class postage prepaid, to adjacent property owners not less than fourteen (14) days prior to the date of the public hearing. If the PUD is an initial application for development, as defined in C.R.S. § 24-65.5-102, then notice must be given by the applicant to mineral estate owners, pursuant to the notice procedures required under state statute. Based on the same criteria for review of the PUD preliminary plan as incorporated in or as fully set forth in section 16-8-120 by the Planning Commission, the Board of Trustees shall:

- (1) Approve the PUD preliminary plan as submitted, with certain conditions as specified by the Board of Trustees, if any;
- (2) Deny the PUD preliminary plan as submitted, or certain portions thereof, with all reasons for denial clearly stated;
- (3) Table the PUD preliminary plan for a period of not more than 60 days for additional study, to obtain additional information, or to have the applicant revise the application or PUD development plan; or
- (4) Refer the PUD preliminary plan back to the Planning Commission with specific instructions for additional study and recommendations, for a period not to exceed 60 days.

16-8-150. Additional conditions.

In addition to the requirements of this Article, the Board of Trustees may attach conditions to its approval of a PUD preliminary plan that the Board of Trustees finds necessary to carry out the purpose of this Chapter. These may include, but are not limited to:

- (1) A requirement that, prior to approval of a final plat in the PUD by the Board of Trustees, the applicant shall provide construction security to secure the construction of the required improvements, as identified in a subdivision improvement agreement connected to the final plat, in the form of a letter of credit, bond, cash or other financial security that is easily convertible into cash in a form acceptable to the town to assure that the PUD is completed according to the PUD preliminary plan approved by the Board of Trustees; and

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- (2) Approval of development of the PUD in phases, if requested by the applicant.

16-8-160. Post-Approval Actions

Upon final passage and publication of the ordinance establishing the PUD zone district, a certified copy of the ordinance shall be recorded in the real property records in the office of the Clerk and Recorder of the Elbert County, and the property shall be identified on the Official Zoning District Map of Kiowa with the symbol "PUD" and the name of the planned unit development.

16-8-170. Vested Property Rights.

An applicant who wishes a PUD preliminary plan approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., as amended, shall follow the procedures for the creation of vested property rights set forth in Article X of this Chapter. Failure to follow those procedures shall result in no vested property rights having been created by the approval.

16-8-180. Amendments to PUD.

The PUD zone district as finally approved by the Board of Trustees shall be binding and shall not be changed during the construction of the PUD or thereafter, except upon application under the following procedures:

- (1) *Conditions for amendment.* A PUD zone district or an approved PUD development plan may be amended or modified, if the applicant demonstrates that the proposed amendment or modification:
 - (a) Is consistent with the efficient development and preservation of the entire PUD, both as proposed and as completed to the date of the application;
 - (b) Does not affect in a substantially adverse manner either the enjoyment of land adjacent to the PUD or the public interest;
 - (c) Is not granted solely to confer a special benefit upon any person;
 - (d) Does not include any new proposed uses that detract from other uses previously approved for this PUD;
 - (e) Contains street and utility plans that are coordinated with planned and existing streets and utilities for the remainder of the PUD; and
 - (f) Does not increase water and sewer demands or create adverse traffic impacts.
- (2) *Application.* When proposing any amendment or modification to a PUD zone district or PUD development plan, the applicant shall first request a preapplication meeting with the town administrator or the town administrator's designee to discuss procedures, requirements (including the required notice and public hearing), and the town's goals and policies. The applicant shall provide for the conference:
 - (a) An application for amendment of a PUD zone district or PUD development plan, plus the appropriate application fee as set in the Town's Fee Schedule;
 - (b) A sketch of the proposed amendments or modifications depicting: topography of the land and the allowed and proposed changes to the existing street system and

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- approximate right-of-way widths, uses including common areas and open space or parks, and densities, and their locations;
- (c) A written summary of the amendments or modifications being requested and a statement setting forth the reasons the proposed amendments or modifications meet the conditions for amendment set forth in subsection (1) of this Section; and
 - (d) Proof of ownership and consent to the amendment or modifications from the owners of all lots directly affected by the proposed amendments or modifications.
Application by or written consent from all of the owners of land in the PUD zone district is not required, if their property is not directly affected by the proposed amendments or modification and whose use or the configuration of their property is not being changed.
- (3) At the preapplication conference, the town administrator or the town administrator's designee shall classify the proposed amendment or modification as a minor or major amendment, based on the classification criteria set forth below in subsection (4). If the town administrator or the town administrator's designee cannot determine on the basis of the criteria specified whether the proposed amendments or modifications should be classified as a minor or major amendment, the Planning commission shall make a determination at its next regular meeting.
- (4) *Classification of amendments.*
- (a) Minor amendment would include locations, sittings, bulk of structures, height or character of building, each of which may be authorized by the town administrator or the town administrator's designee, without a public hearing, if required by circumstances not foreseen at the time the PUD zone district or PUD development plan was approved.
 - (b) Major amendment would include all other changes in use, any rearrangement of lots or access, all changes in the provisions of open space or density, all of which may only be approved by the Board of Trustees, by following the same procedures for approval of the PUD preliminary plan as set forth in this Article, including review and recommendations by the Planning Commission and notice and a public hearing before the Board of Trustees. In addition to any other notice of public hearing required by the provisions of this Article, any persons owning property in or residing within the PUD zone district, whether such person has signed the application or provided written consent to the amendments or modification or not, and adjacent property owners, shall be given written notice of the public hearing, delivered or mailed, first class postage prepaid, not less than fourteen (14) days prior to the date of the public hearing.
- (5) *Review of PUD amendments.* At the public hearing, the Board of Trustees shall review and consider the major amendment to the PUD zone district or PUD development plan and the recommendations of the Planning Commission. Based on the same criteria for review of the PUD preliminary plan as incorporated in or as fully set forth in section 16-8-120 by the Planning Commission, the Board of Trustees shall:
- (a) Approve the major amendment as submitted, with certain conditions as specified by the Board of Trustees, if any;

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- (b) Deny the major amendment as submitted, or certain portions thereof, with all reasons for denial clearly stated;
 - (c) Table the major amendment for a period of not more than 60 days for additional study, to obtain additional information, or to have the applicant revise the application for major amendment; or
 - (d) Refer the major amendment back to the Planning Commission with specific instructions for additional study and recommendations, for a period not to exceed 60 days.
- (6) *Major amendment to a PUD zone district.* Approval of a major amendment to a PUD zone district shall be complete upon passage of an ordinance by the Board of Trustees amending the ordinance which originally identified and designated the PUD zone district.

16-8-190. Building permits—Issuance or termination.

- (1) Development within a PUD zone district cannot occur unless and until a final plat for the portion of the property to be developed has been approved and recorded as provided in the subdivision regulations.
- (2) Building permits for construction within a PUD zone district shall be issued only on the basis of an approved final plat and PUD development plan. No building permit shall be issued for vertical construction within a PUD zone district until all public improvements have been completed, accepted and dedicated to the town, unless otherwise allowed by a development agreement entered with the town.
- (3) If no building permit for construction within a PUD zone district has been issued within two years of the date of approval of a final plat, the approval of the final plat may be rescinded by the Board of Trustees and the Board of Trustees may initiate the process to repeal the ordinance establishing the PUD zone district.

ARTICLE IX - ANNEXATIONS

16-9-10. Prepetition Process.

- (1) Purpose.
 - (a) It is the purpose of the pre-petition process to assist persons interested in annexing property to the Town of Kiowa in identifying issues and impacts that the proposed annexation may create, so as to allow sufficient analysis and investigation by the land owners to insure compliance with Kiowa's annexation policies and the Municipal Annexation Act of 1965, prior to submission of the petition for annexation and consideration by the Board of Trustees. The Board of Trustees may, in its sole discretion, refuse to consider any petition for annexation for which the petitioners did not first submit to the pre-petition process outlined in this Article.
- (2) Prepetition submittals.
 - (a) Any petitioner intending to submit a petition for annexation must first submit to the Town a mission statement and written outline of the proposed annexation and development of the subject property. The mission statement shall concisely define the proponents' reasons for seeking annexation and the benefit to the town of approving

annexation. The outline should include a map showing the property and a general discussion of all items required of a development plan upon submission of an annexation petition.

(3) Process.

- (a) Through the pre-petition process, the annexation proponents, town staff, Planning Commission, and Board of Trustees will attempt to identify terms, if any, upon which a petition for annexation may be deemed beneficial to the town. Upon submission of a pre-annexation outline, town staff shall schedule the proposal for one or more work sessions between the proponents, town staff, Planning Commission, and if desired, the Board of Trustees. At such work sessions, the proposal, and the potential impacts, benefits, and detriments to the town shall be discussed.

16-9-20. Petitions for Annexation.

- (1) *Annexation.* Annexation to the town shall be in accordance with the Municipal Annexation Act of 1965, Title 31, Article 12, C.R.S., and the terms and conditions of this Article.
- (2) *Petitions.* Petitions seeking annexation of land into the town shall comply with all requirements of the Municipal Annexation Act of 1965 and the Colorado Constitution. In addition, petitions shall be accompanied by the following:
- (a) *Fees.* Each petition or series of petitions for annexation shall be accompanied by a fee and deposit as stated in Town's Fee Schedule. If the actual out-of-pocket costs of the town for processing the application are greater than the amount of fees paid, the Board of Trustees will condition the granting of the petition contingent upon the payment of the additional out-of-pocket cost incurred by the town. The fees required are intended to reimburse the town for its actual costs reviewing, considering, and processing the petition, including professional consultant fees, and are in addition to any other fees, charges, impositions, or requirements that the town may impose as a condition of granting the petition.
- (b) *Development plan.* Each petition for annexation shall be accompanied by the following:
- i. If the property is undeveloped or not previously subdivided, a proposed development plan which shall contain, at a minimum, a sketch plan sufficient to meet the Kiowa Municipal Code's subdivision sketch plan requirements, and a proposed zoning plan showing the existing and proposed zoning sufficient to meet the Kiowa Municipal Code requirements for a proposed zoning amendment.
 - ii. Evidence that all municipal services are capable of being extended to the property, the demands for such services that will be created by annexation and/or development, the costs of the services that will be necessitated by the annexation and/or development, and a detailed plan for providing such services at no cost to the town or the applicable service provider. Municipal services and facilities that must be analyzed include: law enforcement; fire protection; emergency medical; library; transportation, including roads, sidewalks, and pedestrian and bicycle paths/trails; solid waste collection and

treatment; wastewater collection, conveyance, and treatment; parks and recreation; stormwater drainage; open space; schools; and planning and building administration.

- iii. An analysis of revenues, if any, that will be generated to the town and other municipal service providers from the annexation and development.
 - iv. Proof that the property is currently being provided adequate water and sewage treatment service, or a detailed plan showing how water and sewage treatment service will be provided to the property, at no cost to the town or applicable service provider. Such plans shall include:
 - 1. The estimated requirements for water and sewage treatment services upon full buildout and the impact on applicable water and sewage treatment plants and conveyance systems.
 - 2. The existing capacity of applicable water and sewage treatment plants and transmission facilities, capacity necessary to serve existing properties within Kiowa that have not yet been developed based on their current zoning and subdivision, and the remaining capacity, if any, which will be left in the treatment plants and transmission facilities if all properties within the town and the property proposed for annexation are developed.
 - 3. Engineering data sufficient to show the feasibility of the proposal and compliance with all federal, state, and local regulations and requirements.
- (c) *Fire protection.* Each petition for annexation shall be accompanied by proof that the area to be annexed is within the boundaries of the Kiowa Fire Protection District, or proof that an application for inclusion of the property within the boundaries of the Kiowa Fire Protection District has been filed. In addition, if the property is currently within the boundaries of any other fire protection district, proof must be submitted that a petition for exclusion of the area from such other fire protection district has also been filed.

16-9-30. Eligibility for Annexation.

In addition to the findings of fact required by the Municipal Annexation Act of 1965, in order for property to be annexed to the town, the Board of Trustees must first find and determine that the petition is consistent with town policies concerning annexation, and the benefits of annexation to the citizens of the town outweigh any impacts.

16-9-40. Subdivision and Zoning.

The Board of Trustees may require as a condition of approval of any annexation petition that the property be contemporaneously zoned. The owner of any property annexed to the town without being zoned under the Kiowa Municipal Code shall petition for zoning within 60 days, and the property shall be zoned within 90 days of the effective date of the annexation. During such period, no building permits or other development approvals shall be granted.

16-9-50. Annexation Agreement.

Unless waived by the Board of Trustees, an annexation agreement, acceptable to the Board of Trustees, must be presented for consideration prior to or contemporaneously with the final

reading of the proposed ordinance for annexing the property. Proposed annexation agreements shall provide for compliance with all zoning, subdivision, and development standards of the town, including but not limited to the following:

- (1) Properly constructed and dedicated roads;
- (2) Properly constructed and dedicated water and sewer facilities;
- (3) Provision for adequate storm drainage;
- (4) Dedication of useable land for public purposes or cash payment-in-lieu thereof, based on the value of the property upon subdivision approval, necessary to meet Kiowa Municipal Code requirements and offset the impacts on all municipal service providers identified in the annexation development plan;
- (5) Compliance with water dedication requirements;
- (6) Installation of all service and utility lines underground;
- (7) The provision of necessary easements for all public purposes; and
- (8) Compliance with all ordinances, resolutions, and policies of the Town of Kiowa, and conditions imposed by the Board of Trustees to mitigate impacts of the annexation on the town.

16-9-60. Conditions of annexation.

The Board of Trustees may grant any annexation petition contingent on any conditions deemed necessary or appropriate, in the sole discretion of the Board of Trustees. Such conditions shall be incorporated into the annexation agreement, and may include, without limitation, additional requirements beyond any imposed by the Kiowa Municipal Code regarding subdivision and zoning, for construction of public facilities, dedications or conveyances of property, limitation or restrictions on the use of the property, the construction and timing of construction of public improvements and facilities, cash payments to the town, and the conveyance of property, including water rights, to the town.

ARTICLE X - VESTED PROPERTY RIGHTS

16-10-10. Intent.

This Article is intended to define a site specific development plan for the Town pursuant to Section 24-68-103, C.R.S., and to establish a procedure to govern the creation of vested rights in accordance with Section 24-68-101 *et seq.*, C.R.S. Nothing in this Article is intended to create a vested property right, but only to implement the provisions of Section 24-68-101 *et seq.*, C.R.S.

16-10-20. Definitions.

- (1) *Site Specific Development Plan* means a map, plat, plan or other document but only as are more particularly described below, including all terms and conditions thereof or which are incorporated by reference which also describes with reasonable certainty the type and intensity of use permitted for a specific parcel or parcels of land:
 - (a) Final Subdivision Plat, as that term is used, referenced and defined in the Town Subdivision Regulations as approved by the Board of Trustees;

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- (b) PUD development plan as that term is used, referenced and defined in Article VII of this Chapter as approved by the Board of Trustees;
 - (c) Such other map, plat or other document wherein a specific written agreement designating the same as a "site specific development plan" has been executed between the Board of Trustees and the property owner for a specific project or development; or
 - (d) No other map, plat, other document or approval of any nature submitted and/or obtained pursuant to the town's zoning or subdivision regulations shall constitute a site specific development plan.
- (2) *Vested real property right* means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

16-10-30. Creation of Vested Rights.

- (1) No vested rights shall be created except by the approval of a site specific development plan by the Board of Trustees.
- (2) If the applicant seeks approval of a site specific development plan to create vested property rights, the application shall include a prominent, clear statement on the application that it is being submitted for designation as a site specific development plan. The plat, plan, map, or other document submitted for approval as a site specific development plan shall contain a prominent, clear statement that the instrument is a site specific development plan for the purposes of creating vested property rights. Failure to include such statement on the application and the instrument to be approved shall result in no vested property rights being created by the approval of the application.

16-10-40. Other Regulations.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions or requirements of the town pertaining to the development and use of the property adopted before the approval of a site specific development plan.

16-10-50. Waiver or Forfeiture.

- (1) Failure to abide by any terms or conditions imposed by the town on the approval of any site specific development plan shall constitute a forfeiture of any vested right created by the plan, unless otherwise expressly agreed to by the town in writing.
- (2) A petition for annexation to the town shall describe all vested property rights approved by any local government in effect at the time of the petition, if any, and be accompanied by all site specific development plans approved by any local government. Failure to so identify any previously approved vested property right and provide all approved site specific development plans shall constitute a waiver of the vested property right created by any other local government upon annexation to the town, unless expressly provided otherwise in the annexation ordinance adopted by the town.
- (3) Any land use application submitted to the town that does not conform to a previously approved site specific development plan shall waive and terminate any vested property rights granted under the previously approved site specific development plan that was

approved by the town or any other local government for the property that is subject to the new land use application.

16-10-60. Notice.

It shall be the applicant's responsibility to comply with the publication requirements of Section 24-68-103(1)(c), C.R.S., following approval of a site specific development plan by the town. Applicant's failure to perfect the publication requirements is an automatic invalidation of any claim to vested property rights.

ARTICLE XI - ACCESSORY USES

16-11-10. Location.

All accessory uses and structures except fences, landscaping, retaining walls and unenclosed parking shall be located inside the minimum setback line.

16-11-20. Home Occupations.

In any zone district in which a home occupation is a permitted use or has been authorized by a special use permit, the establishment and continuance of a home occupation shall be an accessory use subject to the following limitations and restrictions:

- (1) Properties within R-1, R-2, or A-1 zone districts:
 - (a) Such use shall be conducted entirely within a dwelling and carried on principally by the residents thereof. No dwelling may be used for a home occupation unless it is devoted primarily to a residential use.
 - (b) Such use shall be clearly incidental and secondary to the use of the dwelling for residential purposes, and shall not change the residential character thereof.
 - (c) The total area used for a home occupation shall not exceed the equivalent of one-half the floor area of the first floor of the dwelling unit.
 - (d) There shall be no advertising, display, or other indications of home occupation on the premises, except one sign without neon or flashing lights, no bigger than six square feet.
 - (e) A home occupation may not primarily involve on-site retail sales. A home occupation primarily involves on-site retail sales if one-half or more of all customer trips to the dwelling unit consist of the customer coming to the dwelling to complete a sale or pick up purchased goods. Retail sales may be made in connection with other permitted home occupations.
 - (f) There shall not be exterior storage on the premises of material used in the home occupation.
 - (g) There shall not be excessive traffic, significant and frequent truck deliveries, or excessive noise, vibration, smoke, dust, mud, dirt, odors, or glare noticeable at or beyond the property line, as a result of the home occupation. Such conditions shall be considered excessive if they exceed the typical ambient range of variability present in the neighborhood.

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- (h) The owner of the property in which a home occupation is being conducted shall comply with all applicable on-street parking restrictions and shall provide additional off-street parking spaces reasonably adequate to accommodate the needs created by the home occupation of not less than one off-street parking space for any home occupation and one additional off-street parking space for each additional 300 square feet of floor area devoted to the home occupation or for each employee, whichever is greater.
 - (i) Only one operational vehicle that exceeds 22,000 pounds is allowed upon the property and such vehicle cannot be allowed to idle before 7:00 AM or after 7:00 PM.
 - (j) Maximum of three employees working for the owner of the property in which the home occupation is being conducted.
 - (k) Washing of vehicles, excluding personal-use, noncommercial passenger vehicles, or heavy machinery is not permitted.
- (2) Properties within R-3, C-1, C-2, and MU zone districts:
- (a) Such use shall be conducted entirely within a dwelling and carried on principally by the residents thereof. No dwelling may be used for a home occupation unless it is devoted primarily to residential use.
 - (b) Such use shall be clearly incidental and secondary to the use of the dwelling for residential purposes, and shall not change the residential character thereof.
 - (c) The total area used for a home occupation shall not exceed the equivalent of one-half the floor area of the first floor of the dwelling unit.
 - (d) There shall be no advertising, display, or other indications of home occupation on the premises.
 - (e) There shall be no on-site retail sales.
 - (f) There shall not be exterior storage on the premises of material used in the home occupation.
 - (g) There shall not be excessive traffic, significant and frequent truck deliveries, or excessive noise, vibration, smoke, dust, mud, dirt, odors, or glare noticeable at or beyond the property line, as a result of the home occupation. Such conditions shall be considered excessive if they exceed the typical ambient range of variability present in the neighborhood.
 - (h) There shall not be any additional parking spaces needed for the home occupation above the spaces required for the dwelling unit.
 - (i) No vehicles over 22,000 pounds are allowed on the property related to the home occupation.
 - (j) No employee(s) other than those who also reside in the dwelling shall operate out of the property in which the home occupation is being conducted.
 - (k) Washing of vehicles or heavy machinery is not permitted.

16-11-30. Fences.

The maximum height of any fence or wall shall be:

- (1) Forty-two (42) inches in height for any fence that is located within the required minimum front yard area and six (6) feet in height in any other permitted location within any lot in the R-1, R-2 or R-3 zone district;
- (2) Six (6) feet within any lot in the MU zone district;
- (3) Eight (8) feet within any lot in the C-1, C-2, I-1, or I-2 zone district; and
- (4) Eight (8) feet within any lot in the PL zone district, except that fences that are determined by the Board of Trustees to be necessary for the safety and function of any athletic facilities shall not be subject to the height limitations set forth herein.
- (5) Fence regulations for PD, M-1, and F zone districts are controlled by regulations specific thereto as set forth in this Chapter.

16-11-40. Accessory Dwelling Units.

- (1) *Limited use.* Accessory dwelling units (ADUs) are a limited use subject to the requirements of this section, receipt of an ADU permit from the town, and allowed only on lots with a single-family home within the R-1 residential zone district or within a planned unit development unless prohibited by the PUD.
- (2) *ADU permits.*
 - (a) *Permits for new ADUs.*
 - i. An owner of a single-family home in an approved residential zone district may apply for a permit to construct and operate an ADU on the property. Applications must be made in writing on forms provided by the town, submitted to the town planner or his or her duly authorized representative, showing how and in what manner the criteria of this section are met, and must include a statement of current ownership, a legal description of the property, an executed deed restriction as required by subsection 16-11-40(3)(n) in the form provided by the town, and an application fee as set in the Town's Fee Schedule. If the property is not served by the town for water, the applicant must also provide evidence of sufficient water rights to accommodate the additional use created by the ADU. If the property is not served by the town for sewer, the applicant must also provide approval from the Elbert County Health Department that the property has an adequate septic system to serve the additional use created by the ADU.
 - ii. Applications must be submitted concurrently with either the application for a building permit for construction of a detached ADU, or, if the ADU is to be integrated into a new single-family dwelling, with the building permit application for the single-family dwelling unit. A certificate of occupancy will only be granted to an ADU after it has been granted to the primary dwelling unit.
 - iii. ADU permits will be issued administratively by the town planner or his or her designee and may contain conditions designed to minimize the adverse

impacts of the proposed use on neighboring properties as determined by the town planner or designee. No notice or public hearing is required prior to issuance of an ADU permit. In determining whether to grant an ADU permit, the town planner or his or her duly authorized representative shall review the completeness of the application, payment of all required fees, and whether the application meets all requirements of this section, and if so, the town planner or his or her duly authorized representative will issue an ADU permit.

- iv. The town may provide copies of approved ADU permits to emergency service providers, including but not limited to the Elbert County Sheriff, Kiowa Fire Protection District, Elbert County, and the Elbert County Health Service District.
- v. ADU permits for new ADUs automatically expire one year after issuance if the property owner has not received a certificate of occupancy for the ADU.
- vi. ADU permits are only valid for the individual or entity who is the property owner at the time of approval. ADU permits may be transferred to a new property owner, provided the property passes a re-inspection by the town and upon payment to the town of a \$50.00 permit transfer fee. The inspection and transfer fee may be waived if, prior to closing, the town performed a pre-sale inspection and were paid a reinspection fee pursuant to section 16-11-40(4). If the ADU permit is not transferred for any reason within 120 days of closing, the permit shall expire.
- vii. Approval, approval with conditions, or denial of an ADU permit are actions that may be appealed by the property owner to the Planning Commission, and which shall follow the process set forth in 16-11-40(5)(b).

(3) *ADU requirements.*

- (a) In addition to the off-street parking provided for the primary residence each property with an ADU shall have a minimum of one dedicated off-street parking space per ADU bedroom, but no more than two total parking spaces dedicated to the ADU. Parking is prohibited on landscaping and yard areas, must be contained within a garage or on a driveway, and must comply with all requirements of the Town Code. If the ADU is in an area where on-street parking is permitted and the property cannot legally accommodate additional off-street parking for the ADU, in lieu of off-street parking the town will issue up to two on-street parking passes for use by residents of the ADU.
- (b) No ADU shall be used as a short-term vacation rental of fewer than 30 days.
- (c) Only one ADU is allowed on each lot. The ADU may be integrated within the basement or other floor of the single-family home, as a detached structure in the rear or side of the property, or as a unit above an attached or detached garage.
- (d) An ADU shall not exceed 800 square feet of gross floor area, or 50 percent of the gross floor area of the primary single-family dwelling unit, whichever is less. For the purposes of this subsection, square footage calculations shall exclude any garage, porch or similar area. This requirement shall not apply to existing ADUs.

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- (e) An ADU shall not be subdivided or sold separately from the primary dwelling unit.
 - (f) ADUs are not permitted on lots smaller than 6,500 square feet, regardless of the zone district. This requirement shall not apply to existing ADUs.
 - (g) The exterior of an ADU shall be similar in appearance to that of the primary dwelling unit, including but not limited to, materials, color, roof pitch and detailing.
 - (h) Utility service requirements. ADUs may be served through the utility services of the primary dwelling unit or may have separate services. Additional municipal service fees will be charged for each ADU pursuant to the Town Code.
 - (i) Prohibited accessory dwelling units. Mobile homes, travel trailers and recreational vehicles shall be prohibited for use as an ADU.
 - (j) Building code compliance and declaration of use.
 - i. ADUs shall meet all requirements of this chapter and chapter 18.
 - ii. If a new construction or remodel appears to create a new dwelling unit which includes a stovetop, the property owner will be required to obtain an ADU permit even if the owner has no intention of renting the ADU. However, if the area that meets the requirements of an accessory dwelling unit does not include a stovetop, the property owner must sign a declaration of use in a form acceptable to the town which will be recorded with the Elbert County Clerk and Recorder stating that the property may not be used as a separate dwelling unit at any time, and that the unit currently is and will continue to be used only by the occupant of the primary dwelling, or the occupant's immediate family, and not rented separately.
 - (k) No home occupations shall be permitted in either the primary residence or the ADU.
 - (l) Owner occupancy. The property owner, as reflected in title records and evidenced by voter registration, vehicle registration or other similar means, must occupy either the primary residence or the ADU. This requirement shall not apply to existing ADUs, unless the property is sold.
 - (m) Occupancy. No more than two persons per bedroom shall occupy an accessory dwelling unit.
 - (n) Deed restriction. Upon issuing an ADU permit the town may file with the Elbert County Clerk and Recorder, the signed declaration of restrictions in reference to the deed under which the property was acquired by the present owner stating that:
 - i. The ADU shall not be sold separately from the primary dwelling unit, nor shall the lot on which it is situated be subdivided unless such subdivision is permissible in accordance with all provisions of the Town Code;
 - ii. The ADU shall be restricted to the approved size;
 - iii. The ADU is the only ADU on the property;
 - iv. Home occupations are prohibited in the ADU and in the primary residence;
 - v. The above restrictions run with the land and are binding upon any successor in ownership of the property;

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- vi. It shall be unlawful for any property owner or tenant not to comply with the deed restrictions;
 - vii. The deed restrictions shall lapse upon removal of the ADU. To affect this intent and upon verification of such removal, the town shall record appropriate documentation releasing such encumbrance. The property owner shall pay all required recording fees, and it shall be the property owner's responsibility to ensure that such recording is successfully completed.
- (4) *Pre-sale inspection.* Prior to the sale of any property with an ADU, the owner shall schedule a re-inspection by the town to determine continued compliance with the Code and the ADU and pay a re-inspection fee set in the Fee Schedule. An approved inspection shall be valid for a period of 120 days. If no sale has taken place within that time an additional re-inspection shall be required, and the town may charge an additional re-inspection fee.
- (5) *Enforcement.*
- (a) *Violations.* The town may investigate violations of this section and violations of conditions of an ADU permit, issue notices, assess fines, and abate violations in the same manner as provided for nuisances and general violations of the Kiowa Municipal Code.
 - (b) *Revocation of permit.* The town administrator is hereby granted concurrent power and authority to revoke any ADU permit for violation of any regulations of the Town of Kiowa, including violations of this section, or for violations of any of the conditions imposed upon the ADU permit. Written notice will be served on the property owner at the address contained in the permit, setting forth a clear and concise allegation of the violation. If such person does not reside within the Town, service may be made by U.S. Mail, postage prepaid, to the mailing address on file with the county assessor's office. A property owner may appeal to the Planning Commission any decision to revoke or deny an ADU permit. Such appeal must be in writing, submitted to the town clerk within seven days of the decision, and must state the reasons why such permit should not be suspended, revoked, or the application denied. Within 45 days of the submittal of the appeal, the Planning Commission will hold an administrative hearing to determine whether to uphold or overturn the decision. The town clerk will provide the applicant or permit holder with seven (7) days' notice of the time and place of such hearing. After hearing evidence from the property owner and the town planner or designee, the Planning Commission may issue a verbal decision and may thereafter issue written findings which shall be final and conclusive. The Planning Commission may promulgate additional rules and regulations or procedures to govern any such hearing and/or review. The decision of the Planning Commission shall be subject to review by the municipal court by filing a complaint that includes the specific allegations of error no more than twenty-eight (28) days after the final decision by the Planning Commission. The municipal court's review shall be limited to a determination of whether the Planning Commission exceeded his or her jurisdiction or abused his or her discretion, based on the evidence in the record before the Planning Commission. Any appeal of the decision of the municipal court shall be brought in district court as a civil matter pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

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- (c) *Removal required.* Within sixty (60) days of the expiration or revocation of an ADU permit, no person shall continue to occupy an ADU as a separate dwelling unit and the property owner shall remove the ADU and return the property to its single-family use status as a single dwelling unit by either:
- i. Removing the kitchen within the ADU and any physical separation between the ADU and the balance of the unit, and obtaining inspection by the town verifying completion of the removal; or
 - ii. Leaving the kitchen within the ADU and removing any physical separation between the ADU and the balance of the unit and obtaining inspection by the town verifying completion. Owner and/or the town shall also sign a declaration of use in a form acceptable to the town planner, which will be recorded with the Elbert County Clerk and Recorder stating that the property may not be used as a separate dwelling unit at any time, and that the unit currently is and will continue to be used only by the occupant of the primary dwelling, or the occupant's immediately family, and not rented separately.
- (d) *Limitations on re-application.* Upon revocation of an ADU permit or the failure of the owner of an existing ADU to apply for a permit or to remove an ADU as required by this section, the property owner shall be prohibited from reapplying for an ADU permit for any location within the town for a period of three years following the date of revocation or conviction.

ARTICLE XII – NONCONFORMING USES

16-12-10. Nonconformance.

Certain uses of land and buildings may be found to be in existence at the time of enactment of this Chapter. It is the intent of this Article to allow the continuance of such nonconforming uses.

16-12-20. Alterations and extensions.

No building or use that is nonconforming with the Town Code as of August 12, 1975, shall be expanded in any way that would increase the degree of nonconformance. The following changes or alterations may be made to a nonconforming building:

- (1) Repair to a building that has officially been declared unsafe, to restore such building to a safe condition.
- (2) Maintenance repairs that are necessary to maintain the good condition of the building.
- (3) Any structural alteration that would reduce the degree of nonconformance or change the use to a conforming one.

16-12-30. Discontinuance of Nonconforming Use.

Whenever a nonconforming use has been discontinued for a period of six (6) months, it shall not thereafter be reestablished. Any future use shall be in conformance with the provisions of this Chapter.

16-12-40. Nonconforming lots.

Nonconforming lots on record on August 12, 1975, may be built upon, provided that yard requirements are met. Homes built by January 1, 1975, on lots smaller than permitted shall be deemed conforming.

16-12-50. Change to a nonconforming use.

Nonconforming use of a building or lot shall be changed to another nonconforming use.

ARTICLE XIII - SPECIAL USE PERMITS

16-13-10. Intent.

Uses not otherwise permitted in a zone district may be allowed in the zone district indicated, only upon issuance of a special use permit by the Planning Commission following notice and hearing. The issuance of a special use permit may, in some manner, contradict the purpose and intent of this zoning code. The following criteria shall be used to guide the Planning Commission in determining that the proposed use is appropriate:

- (1) Relation to and effect upon the comprehensive plan generally;
- (2) Effect upon light and air, distribution of population, transportation, water, sewage, schools, parks and other public improvements and requirements;
- (3) Effect upon traffic in the streets, with particular reference to congestion, automotive and pedestrian safety and convenience, traffic flow and control, including control and flow of traffic entering public streets from private property, access and maneuverability and removal of snow from the streets under circumstances of heavy accumulation;
- (4) Effect upon the character of a particular zoning district, including the effect upon characteristic use within such district, and the characteristic physical attractiveness of such district, its architecture and landscaping;
- (5) Effect upon the value of existing buildings and improvements;
- (6) The appropriateness of the proposed use in relation to the land uses generally throughout the town;
- (7) Complete list of the names and mailing addresses of adjacent property owners within 300 feet of subject property required to be notified of the hearing on the application for special use permit;
- (8) Whether the granting of the application would amount to granting to the applicant a special favor not available to other persons; and
- (9) The possible adverse effect of approval or denial as a precedent in future cases.

16-13-20. Process, submittal requirements, and procedures.

The form of application, submittal requirements and procedures for an application for a special use permit may be available from the Town.

A person proposing a use which requires a special use permit shall submit a written application to the town specifying or including:

- (1) The name and address of the applicant;
- (2) The legal description and street address of the subject property.
- (3) That the applicant is the owner of the subject property or has the written permission of the owner (copy to be enclosed), to make the application.
- (4) The nature of the proposed use for which a special use permit is required by this zoning code, fully describing the intended use of the property;
- (5) An appropriate number of 11-inch by 17-inch reductions of the site plan as determined by the town;
- (6) Unless services are already being provided to the property, letter(s) from the appropriate utility service providers and fire district stating the availability to serve the proposed use;
- (7) Complete list of the names and mailing addresses of adjacent property owners within 300 feet of subject property required to be notified of the hearing on the application for special use permit;
- (8) Pay fee to the Town of Kiowa as set forth in fee schedule; and
- (9) Additional information may be requested by the town as appropriate to the particular application, or portions of the information required above may be waived by the planning director if it is deemed to be inappropriate to the particular application.

16-13-30. Screening requirements for outside storage by special use permit.

Outside storage is prohibited, except in the I-1, I-2, and PL-1 zone districts but only if approved by special use permit and when the following conditions are met:

- (1) Screening means the physical obstruction or impedance of view from outside the property through the methods specified in this section.
- (2) Screening of outside storage is required along all street frontage sides, bike paths, or pedestrian trails, and along property lines with adjacent properties that are not within the same zone district.
- (3) If the entire property is not used for outside storage, only those areas used for outside storage must be screened.
- (4) Screening must be achieved either with fencing, landscaping, wall materials, or a combination that reaches a minimum height of six feet;
 - (a) Fence material must be chain link fence with privacy slats comprised of metal, plastic, PVC, or other rigid synthetic material in earth tones of beige, brown, green, or black color;
 - (b) Wood and decorative concrete fences are permitted in earth tones of beige, brown, green, or black color;

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- (c) Fencing or wall materials shall be repaired and maintained as needed to maintain the screening as to not provide gaps, sections which hang off the fence, or conditions in which the screening method is not reasonably functioning as intended;
 - (d) Privacy/windscreen mesh material may not be used;
 - (e) Any properties using privacy/windscreen mesh material prior to January 30, 2024, may retain it until the screening does not achieve the physical obstruction or impedance intended by section 16-13-30(1). Once screening no longer functions as intended, the requirements of section 16-13-30(4) shall be in effect;
 - (f) Screening by landscaping may accomplish the height requirement of section 16-13-30(4), with or without a berm, but must include trees and, or shrubs planted in a linear or a staggered (zipper) planting arrangement. Boulders may also be incorporated as a screening element. Landscaping shall be maintained by irrigation and must be replaced if it becomes damaged, diseased, or infested and cannot be treated, or if a tree or shrub dies. Only tree and shrub species that are native to the area are permitted; other species providing similar year-round screening may be considered if the applicant provides thorough information on the species of interest, planting locations, and maintenance plan and are approved through the special use permit. The special use permit shall include a detailed landscaping plan showing location, species type, species height, number of trees and shrubs, berm dimensions, and other relevant information about the site. Approved native tree and shrub species are listed below:
 - i. Rocky Mountain Juniper/Red Cedar with trunks a maximum of ten (10) feet apart;
 - ii. Green Giant or Emerald Green Arborvitae with trunks a maximum of ten feet apart;
 - iii. Other native examples include the Colorado Spruce, Pinon Pine, Ponderosa Pine, Sage Brush, or other similar native tree or shrub species;
 - iv. Distances between alternatively suggested vegetation must be within reason and meet the intent of section 16-13-30(1) in providing screening;
 - (g) Combinations of fencing materials and landscaping may be used,
 - (h) If an applicant would like to propose alternative screening options not specifically permitted by this Section, such as fence materials, fence designs, other landscaping species, or more creative options to achieve the purposes of screening, the applicant may submit design plans to be considered by the Planning Commission at no additional cost to the applicant.
 - i. Any alternate species proposed must be native to the area. It must be demonstrated that the species will grow at a rate similar to that of the approved species and never demand more water than the property has the right to use for landscaping;
 - ii. Any screening method proposed must, within reason, accomplish the intent set out by section 16-13-30(1).

16-13-40. [Reserved]

16-13-50. Action by Planning Commission, special use permit.

A special use permit may be obtained from the Planning Commission, following notice and a public hearing, to undertake a use so enumerated as requiring a special use permit as set forth in this Chapter. A special use permit may only be granted upon a showing that the proposed use will not adversely affect neighboring parcels in a manner the Planning Commission finds to be unreasonable. Special use permits may be issued by the Planning Commission, following notice and a public hearing, recommendations, if any, of the Town staff to grant or deny the application, and may contain conditions necessary or appropriate to prevent adverse effects on neighboring properties.

A use that is not listed as a permitted use in the applicable zoning district may be allowed following the approval of the Board of Trustees upon the recommendation of the Planning Commission after a public hearing before the Planning Commission, or the Board of Trustees may deny the special use permit or approve it with conditions, all after consideration of the criteria set forth in section 16-13-10.

The public hearing before the Planning Commission shall be scheduled not less than 30 and not more than 60 days after receipt of a complete application for special use permit by the town. Notice of the public hearing shall be published once at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation within the town. The parcel for which such special use permit is sought shall be posted by sign at least fourteen (14) days prior to the date of the public hearing and continuously through the date of the public hearing. Such notice shall also be mailed by first class United States mail, postage prepaid to the applicant and to adjacent property owners as such owners; names and addresses may appear in the tax records of the town or Elbert County at least fourteen (14) days prior to the date of the public hearing. Notice shall be given by inclusion in the agenda of the Planning Commission meeting at which the application shall be heard. The names and addresses of the adjacent property owners required to be notified shall be determined by the applicant and such information shall be submitted to the town with the application.

The Planning Commission may table an application for thirty-five (35) days after the hearing for further information or consideration or the commission may continue the hearing to a specific date and time for receipt of additional information and for consideration of that information by the commission. The Planning Commission shall grant or deny the application for special use permit by resolution after consideration of the criteria set forth in this section and only after finding that granting the application will not cause a material adverse effect on the neighborhood involved or on the town; does not frustrate the general goals of the comprehensive plan and the zoning code; and does not give the applicant a special favor not available to others in the community. In granting any special use permit, the Planning Commission may impose conditions necessary or appropriate to prevent or mitigate adverse effects on neighboring properties. The determination of the Planning Commission to grant or deny the application for special use permit shall be final, and any appeal of the decision shall be to the Board of Trustees.

Special use permits may be temporary or permanent. The applicant shall be notified in writing of approval or denial of the application. If the application is denied, the reasons for denial shall be set forth in the resolution. Upon approval, a special use permit will be issued with any

conditions as determined by the commission and will become effective upon the signature of the permittee and the chair of the Planning Commission.

Special use permits shall be permanent upon completion of the proposed use. However, if the proposed use is not completed within one year from the date of issuance of the special use permit, the special use permit shall become null and void and of no effect, except the Planning Commission may extend the expiration date of the permit upon good cause being shown for failure to complete the use as proposed. Any fees paid to the town, other than the application fee, in conjunction with the issuance of the special use permit which is null and void may be retained or refunded as determined by the Planning Commission. Any special use permit issued under the terms of this Article shall become null and void at the expiration of one year after the use for which it is issued shall have been discontinued.

Temporary special use permits shall not be granted for a term of more than one year and an expiration date shall be specified when the permit is issued. A temporary special use permit shall not be renewed or extended beyond its expiration date. A new temporary use permit may be issued upon a new application after notice and a public hearing as provided herein.

16-13-60. Enforcement.

The Planning Commission is hereby granted concurrent power and authority to suspend or revoke any special use permit for violation of any regulations of the town or for violation of any of the conditions imposed upon the special use permit. Upon receipt of notice of a violation, the Planning Commission shall cause written notice to be served on the permittee, or that person successors or assigns, at the address contained in the permit, setting forth a clear and concise allegation of the violation and directing the permittee, or that person successors or assigns, to appear at a date and time certain before the commission not less than ten (10) days nor more than thirty (30) days after the date of service of the notice of violation. If such person does not reside within the town, service may be made by certified mail, return receipt requested.

The Planning Commission shall hold a hearing to determine the nature and extent of the alleged violation and shall have the power, on good cause being shown to cancel, suspend or revoke the special use permit or special use permit theretofore issued to the permittee, or to require corrective measures to be taken, or to direct the town or its agents to enter onto the premises and to take the corrective measures required by the commission, the costs of such corrective measures completed by the town to be assessed against the permittee, or that person successors or assigns, and the property for which the permit was issued.

16-13-70. Unlawful acts.

- (1) It shall be unlawful for any person to violate any of the provisions of this Article.
- (2) It shall be unlawful for any person to use any land, building or structure for any purpose for which a special use permit or special use permit is required by any of the provisions of this zoning code, without first obtaining such permit. If found in violation, in addition to any fine that may be imposed in the municipal court, violators shall also be responsible for court fees and attorney fees incurred by the town in bringing any enforcement action.
- (3) It shall be unlawful for any person, while any special use permit or special use permit is null and void for failure to complete the proposed use, canceled, suspended or revoked, to use any land, building or structure for any purpose for which such a permit is required by

the provisions of this zoning code. If found in violation, in addition to any fine that may be imposed in the municipal court, violators shall also be responsible for court fees and attorney fees incurred by the town in bringing any enforcement action.

ARTICLE XIV - VARIANCES

16-14-10. Authority.

The Planning Commission shall have the power to grant variances from the requirements of the zoning code in respect to any building or structure classified under Articles IV, V, VII, XI, and XV of this Chapter. No variance may be granted to permit a use not otherwise permitted in the applicable zone district. Variances shall be granted only in cases of unusual hardship which are not self-imposed, as provided in this Article.

16-14-20. Application—Required.

A person desiring a variance shall submit a written application to the town for determination by the Planning Commission, specifying:

- (1) The name and address of the applicant;
- (2) The legal description and street address of the subject property;
- (3) That the applicant is the owner of the subject property or has the written permission of the owner (copy to be enclosed), to make the application;
- (4) The nature of the proposed use, or other item proposed, which is not permitted by this Chapter;
- (5) The nature of the hardship which would be created by a strict interpretation of this Chapter;
- (6) The justification for the applicant being granted a variance;
- (7) An appropriate number of 11-inch by 17-inch reductions of the site plan as determined by the town shall be submitted in an electronic format acceptable to the department, together with one (1) paper copy of the site plan for the file;
- (8) Letter from the appropriate utility providers and fire district stating the availability to serve the proposed use;
- (9) Complete list of the name and mailing addresses of adjacent property owners within 300 feet of subject property required to be notified of the hearing on the application for variance;
- (10) A fee in the amount set forth in the Town's Fee Schedule shall be tendered by check with the application submitted to the town (check made payable to the Town of Kiowa);
- (11) Additional information may be requested by the town as appropriate to the particular application, or portions of the information required above may be waived by the town administrator or the town administrator's designee if it is deemed to be inappropriate to the particular application.

16-14-30. Application—Hearing and review.

The public hearing on the application for variance before the Planning Commission shall be scheduled not less than thirty (30) and not more than sixty (60) days after receipt of the application for variance by the town. Notice of the public hearing shall be published once at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation within the town. The parcel for which such variance is sought shall be posted by sign at least fourteen (14) days prior to the date of the public hearing and continuously through the date of the public hearing. Such notice shall also be mailed by first class United States mail, postage prepaid to the applicant and to adjacent property owners as such owners' names and addresses may appear in the tax records of the town or Elbert County at least fourteen (14) days prior to the date of the public hearing. Notice shall be given by inclusion in the agenda of the Planning Commission meeting at which the application shall be heard. The names and addresses of the adjacent property owners required to be notified shall be determined by the applicant and such information shall be submitted to the town with the application.

In reviewing and considering an application for variance, the Planning Commission shall consider the following factors:

- (1) Relation to and effect upon the comprehensive plan generally;
- (2) Effect upon light and air, distribution of population, transportation, water, sewage, schools, parks and other public improvements and requirements;
- (3) Effect upon traffic in the streets, with particular reference to congestion, automotive and pedestrian safety and convenience, traffic flow and control, including control and flow of traffic entering public streets from private property, access and maneuverability and removal of snow from the streets under circumstances of heavy accumulation;
- (4) Effect upon the character of a particular zoning district, including the effect upon characteristic use of such district, and the characteristic physical attractiveness of such district, its architecture and landscaping;
- (5) Effect upon the value of existing buildings and improvements;
- (6) The appropriateness of the proposed use in relation to the land uses generally throughout the town;
- (7) The advisability of any imposition of conditions it finds necessary for the protection of the community or the immediate neighborhood from adverse effects of the use or building involved;
- (8) The cause, uniqueness and severity of the hardship claimed by the applicant;
- (9) Whether the granting of the application would amount to granting the applicant a special favor not available to other persons;
- (10) The possible adverse effect of approval or denial as a precedent in future cases;
- (11) Alternative variances which deviate less from the strict requirements of this Chapter.

16-14-40. Action by Planning Commission.

- (1) The Planning Commission may table an application for variance for 30 days after the public hearing for further information or consideration or the commission may continue

the hearing to a specific date and time for receipt of additional information and for consideration of that information by the commission. Except in unusual circumstances, or during the time an applicant is obtaining additional information requested by the commission, an application for variance shall not be tabled longer than 30 days after its first hearing.

- (2) The Planning Commission shall grant or deny an application for variance by resolution. The Planning Commission may grant a variance only after consideration of the factors listed in section 16-14-30, and only after finding that the granting of the variance:
 - (a) Will not cause a material adverse effect on the neighborhood involved or on the town;
 - (b) Does not frustrate the general goals of the comprehensive plan and the zoning code;
 - (c) Is justified because of any unusual hardship imposed on the subject property by a strict interpretation of this zoning code, which hardship is not the fault of the applicant or his predecessors in interest in the subject property;
 - (d) Does not give the applicant a special favor not available to others in the community.
- (3) In granting any variance, the Planning Commission may impose conditions for the reasonable protection of the immediate neighborhood from adverse effects of the building or use involved.
- (4) The applicant shall be notified in writing of approval or denial of the application. If the application is denied, the reasons for denial shall be set forth in the resolution. Upon approval, a variance in written form shall be issued with any conditions as determined by the Planning Commission and shall become effective upon the signature of the permittee and the chair of the Planning Commission.
- (5) Any variance granted by the Planning Commission shall be permanent upon completion of the proposed use or other action proposed by the applicant. However, if the proposed use or action is not completed within one year from the date of issuance of the variance, the variance shall become null and void and of no effect, except the Planning Commission may extend the expiration date of the variance in writing upon good cause being shown in writing by the applicant for failure to complete the use or take the action as proposed. Any variance issued under the terms of this Article shall become null and void at the expiration of one year after the use for which it is issued shall have been discontinued.
- (6) Any decision to grant or deny an application may be appealed to the Board of Trustees as provided in section 16-22-70.

ARTICLE XV – SIGN CODE

16-15-10. Sign regulations.

- (1) Signs shall be permitted in the various zone districts as accessory uses in accordance with the regulations contained in this Article.
- (2) The primary goal of these regulations is to protect the health, safety, and welfare of the public by ensuring that signs are safely constructed, located, and maintained to prevent hazards and nuisances.

(3) Generally, signs in the Town:

- (a) Must be designed and located so that it does not obstruct visibility for traffic or create confusion with traffic control devices, and it shall not pose a danger to motorists, pedestrians, or cyclists by impairing visibility;
- (b) Should avoid visual clutter and maintain the rural charm and aesthetic quality of the Town;
- (c) Be well-designed and contribute to the property values and appeal of the surrounding area;
- (d) Be permanently affixed to the ground, building, or other structure, unless the sign meets the requirements of being a temporary sign as set forth in this Article; and
- (e) Not be a prohibited sign, as set forth in this Article.

16-15-20. Prohibited signs.

The following types of signs are prohibited in all zone districts:

- (1) Signs that revolve, rotate or have any other mechanical motion;
- (2) Signs that are designed to use strobe lights, flashing, or display animations, including electronic message boards;
- (3) Signs larger than fifteen (15) square feet with flashing or variable lights;
- (4) Signs with searchlights, inflatable signs, and any other type of temporary feature intended solely to attract attention;
- (5) Signs that make noise;
- (6) Signs that obstruct visibility of traffic or pedestrians, create confusion with traffic control devices, or present a safety hazard;
- (7) Business signs for businesses that are not licensed to do business in the boundaries of the Town of Kiowa, except when a temporary permit has been obtained from the Town; and
- (8) Off-premises signs, portable signs, temporary signs, banners or pennants, except as allowed under these regulations for special events or a temporary sign permit.

16-15-30. Nonconforming signs.

- (1) Defined. A nonconforming sign is any sign which on the effective date of the ordinance codified in this Article was lawfully maintained and had been lawfully erected in accordance with the provisions of this Code then in effect, but which sign does not conform to the limitations established by this Article.
- (2) Continuance of nonconforming sign. Subject to the provisions of subsection (3) below, any nonconforming sign lawfully existing at the time of adoption of this Article may be continued in operation and maintained after the effective date of the ordinance codified herein, provided that no such sign shall be changed in any manner that increases the noncompliance of such sign.
- (3) Termination. Any nonconforming sign that has been damaged in excess of fifty percent (50%) of its replacement cost shall not be restored except in conformance with the

provisions of this Article. Nonconforming temporary signs are not eligible for the renewal of a temporary sign permit.

16-15-40. Permit required – Permanent Signs.

- (1) The erection or replacement of any permanent sign larger than ten (10) square feet shall require a permit from the Town.
- (2) Sign permits shall be issued administratively by the Town staff. Sign permit applications shall be accompanied by detailed drawings indicating the dimensions, location and engineering of the particular sign and site plans when applicable. Sign permit fees shall be established by the Board of Trustees.

16-15-50. Residential signs.

Signs permitted in residential zone districts shall be limited to the following types and sizes of signs accessory to any residential use:

- (1) One (1) identification sign per dwelling unit, single- or double-faced, provided that such sign does not exceed two (2) square feet in area per face;
- (2) One (1) identification sign per two-family or multi-family building, wall-mounted, provided that such sign does not exceed ten (10) square feet in face area;
- (3) One (1) "for sale" or "for rent" sign per dwelling unit or lot, single- or double-faced, provided that such sign does not exceed ten (10) square feet in area per face and is unlighted;
- (4) Project identification signs during the construction of a development, provided that the placement and use of all such signs shall be subject to the following limitations:
 - (a) The maximum size for project identification signs shall be forty (40) square feet in area per face, single- or double-faced.
 - (b) All such signs shall be located within the development and must be located along streets adjacent to or within the development and subject to the following limitations:
 - i. No more than one (1) such sign shall be permitted on any single boundary of the development.
 - ii. Signs may not be internally illuminated.
 - iii. Signs may not exceed six (6) feet in height.
 - (c) Project identification signs must be removed when the development sales office closes.
- (5) One (1) community identification sign per vehicular entrance to the development identifying a subdivision or housing project, provided that such sign does not exceed twenty (20) square feet in area per face (single- or double-faced), does not exceed six (6) feet in height and is not internally illuminated.

16-15-60. Public and semipublic use signs.

Signs permitted in non-residential zone districts shall be limited to the following types and sizes of signs accessory to any public or semipublic use: one (1) identification sign per building for a

public or semipublic use, provided that such sign does not exceed thirty-six (36) square feet in area per face (single- or double-faced), is wall-mounted or does not exceed six (6) feet in height.

16-15-70. Commercial signs.

Signs permitted in the commercial zone districts, and for the commercial use component, shall be limited to the following types and sizes of signs accessory to any commercial use:

- (1) One (1) freestanding identification sign on each street frontage of the lot, provided that such sign does not exceed forty (40) square feet in area per face (single- or double-faced) and does not exceed twenty-five (25) feet in height. The sign must be placed within thirty (30) feet of the street right-of-way.
- (2) One "for sale" or "for rent" sign per each four hundred (400) feet of the lot's street frontage, provided that each sign does not exceed forty (40) square feet in area per face (single- or double-faced).
- (3) Tenant or building wall signs, including window signs, with the following limitations:
 - (a) For the first one hundred (100) feet in length for an individual exterior building wall, the maximum sign area permitted on that wall shall be equal to three-quarters (0.75) of a square foot of sign area for each linear foot of exterior building wall length that the sign is placed on.
 - (b) For any building with an individual exterior wall longer than one hundred (100) feet, the maximum sign area permitted on that wall shall be equal to seventy-five (75) square feet, plus an additional one-quarter (0.25) square foot of sign area for each linear foot of exterior building wall length over one hundred (100) feet.
 - (c) Building-mounted signs must be placed on a building wall that is oriented toward the street or parking area.

16-15-80. Measurement of sign face area.

The sign face area shall be calculated as follows:

- (1) Where the letters or identification elements are mounted onto, cut out of, painted on or otherwise affixed to a background or panel, the size of the sign shall be calculated as the rectangular area encompassing the entire background, panel or framed area.
- (2) Where letters or identification elements are individually mounted on a building surface, the size of the sign shall be calculated as the rectangular area encompassing the perimeter of the entire message.

16-15-90. Canopy or awning signs.

Signs that are affixed to, mounted on or printed onto a building canopy, shed roof or awning are considered wall signs and subject to the wall sign limitations for the wall onto which the canopy, roof or awning is affixed.

16-15-100. Temporary Signs

- (1) *Definition.* Under this Article, a temporary sign is any sign used for the purpose of identifying or advertising a business, profession, or other establishment, that is not permanently attached or fixed to the ground, a building, or a permanent structure.

Temporary signs include, but are not limited to, portable signs, pennants, feather banners, sock signs, banners, and sandwich boards.

- (2) *Special events.* Temporary signs, including off-premises signs, are allowed in any zone district for the purpose of advertising an upcoming special event. Special events include community events and fairs; public elections; garage sales; sidewalk sales; and church, club or school-sponsored events. These signs are permitted provided that they do not cause a safety hazard, they remain in good condition and they are not a nuisance to the public. The signs must be removed immediately following the conclusion of the event that they are advertising. Special event signs shall not be allowed more than thirty (30) days before the scheduled special event.

(3) *Temporary Business Signs.*

(a) *Eligibility for Temporary Signs*

- i. Temporary signs may only be placed by licensed business located within the Town of Kiowa.
- ii. Temporary signs may only be placed by business operating temporarily, such as contractors within the Town of Kiowa, who have obtained an approved business license and permit. As such, contractors can only place the signs where they are conducting business/work.
- iii. Businesses operating outside of the Town limits of Kiowa are prohibited from placing temporary signs within the Town.

(b) Permitted Number and Duration:

- i. A business may display two (2) temporary signs per calendar quarter.
- ii. The sign may remain on the property for a maximum of sixty (60) consecutive days within the calendar quarter.
- iii. One (1) standard-sized sandwich board sign is allowed daily during business hours, provided it is removed after business hours and does not obstruct nor impair access to a public sidewalk.

(c) Size and Location Restrictions:

- i. Temporary signs shall not exceed eight (8) feet in height.
- ii. The total area of a temporary sign shall not exceed thirty-two (32) square feet.
- iii. Temporary signs must be displayed only on the private property of the business and must not extend beyond the boundaries of that property.

(d) Maintenance and Safety:

- i. All temporary signs must be maintained in good condition, free from rips, tears, or other physical damage, and securely fastened.
- ii. Temporary signs must not cause noise or movement that may be disruptive to the surrounding area.
- iii. Temporary signs must not be a prohibited sign under Section 16-15-20.

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- iv. The business owner shall be responsible for the removal of any temporary sign upon the expiration of the permitted timeframe or the end of the sixty (60) day period.

(4) Permit requirement:

- (a) An annual temporary sign permit shall be required for the placement of temporary business signs.
- (b) Only one (1) temporary sign permit may be issued per business establishment per calendar year.
- (c) The permit will grant two (2) temporary signs per calendar quarter, per property.
- (d) The owner must notify the Town by email when each temporary sign will be displayed.
- (e) There shall be an administrative fee for processing temporary sign permits, as set forth in the Town's fee schedule adopted by the Board of Trustees.

16-15-110. Enforcement

- (1) The Town of Kiowa reserves the right to inspect any sign to ensure compliance with the provisions of this Article.
- (2) Violation and Penalties: Any business owner found in to be in violation of this Article shall be subject to the removal of the sign and potential revocation of the sign permit.
- (3) Notice of Violation: A written notice will be provided to the business owner and provide a period of five (5) calendar days to correct a violation. After five (5) calendar days, the sign violation may be removed by the Town at the business owner's expense.

ARTICLE XVI - SPECIAL EVENTS PERMITS

16-16-10. Consent to use Town property.

Consent of the town is required to use any town park, recreational property or other properties and facilities owned or operated by the town, except as otherwise permitted by the Kiowa Municipal Code and rules or regulations associated with such property. In evaluating any request to use a town property or facility, the town shall determine whether such use shall be allowed only pursuant to a special events permit.

16-16-20. Special events permits.

A special events permit granted pursuant to this Article is required in advance for all events that are held on or in town parks, recreational properties or other properties and facilities owned or operated by the town where the activities or uses associated with the event:

- (1) Are not allowed by the applicable zoning, or a special use permit or zoning variance; or
- (2) Would otherwise violate the Kiowa Municipal Code; or
- (3) Are determined by the town when evaluating the request to use the town property or facility to require special conditions to mitigate the anticipated impacts from the special event on adjacent property, the neighborhood, and the public.

16-16-30. Special events permit holder rights.

A special events permit shall allow the permit holder to conduct the event for the time period, activities and uses specified in the permit, subject to compliance with the conditions of the permit. A special events permit shall be valid for a specific period of time, not to exceed 120 days, and shall not be transferable.

16-16-40. Application procedure.

Applications for a special events permit shall be submitted to the Town Administrator or designee no later than 60 days prior to a proposed special event. No more than one special events permit application shall be required for any organized special event, such as a festival, involving more than one activity or site or held for a duration of more than one day or for a series of periodic, related events, so long as the application is otherwise complete as to each such activity, site, occurrence or time period.

- (1) The Town Administrator or designee shall refer the application for comments to other departments or agencies, as determined by the Town Administrator or designee to be appropriate.
- (2) The Town Administrator or designee shall determine whether to approve, approve with conditions, or deny the special events permit application.
- (3) The town shall publish notice of a decision to approve or deny a special events permit at least twenty-eight (28) days prior to a proposed special event.
- (4) Any person alleged to be negatively affected by the granting or denial of a special events permit application may file with the Town Administrator or designee a written appeal of the decision within seven days after notice of the decisions is published. The Board of Trustees shall hold a hearing to consider the appeal upon not less than three (3) days' notice to the applicant and the person filing the appeal. An administrative appeal to the Board of Trustees is a requirement of any judicial challenge or appeal to the approval or denial of a special events permit, any of the permit conditions or the holding of the event based on the terms of an approved permit.

16-16-50. Grounds for approval or denial.

- (1) A special events permit application shall be approved by the Town Administrator or designee if, based on conditions and requirements imposed upon the permit, it meets all of the following criteria:
 - (a) The applicant has obtained permission to use all properties or facilities associated with the special event.
 - (b) The proposed special event will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare.
 - (c) The particular location requested can reasonably accommodate the special event, given the proposed nature, size, or duration of the event.
 - (d) The applicant complies with any other required approvals, conditions or permits.
 - (e) The proposed special event shall not create an unreasonable risk of:
 - i. Significant damage to public or private property;

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- ii. Injury to persons;
 - iii. Public or private nuisances;
 - iv. Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel; or
 - v. Unduly burdensome police, fire, trash removal, maintenance, or other public service demands.
 - (i) The time and location for the proposed special event is not already permitted or reserved for other activities.
 - (j) The applicant has provided sufficient proof of liability insurance to reasonably cover any potential claims that could arise as from the special event, the policy for which shall name the town as an additional insured.
 - (k) The applicant shall agree to indemnify and hold the town harmless for any and all claims and liabilities arising from the special event.
 - (2) Prior approval of a special events permit shall not be grounds for requiring a permit to be issued for any other event requested to be held by the same applicant, or any subsequent occurrence of the same or similar event.
 - (3) Failure of an applicant to conduct a previous event in compliance with applicable laws, regulations or permit conditions shall be a basis of denial of a special events application.

16-16-60. Conditions and restrictions.

- (1) The following restrictions shall apply to all special events permits:
 - (a) Permanent alterations to the site inconsistent with applicable zoning are prohibited.
 - (b) Permanent signs are prohibited. All approved temporary signs associated with the temporary use shall be removed when the activity ends.
 - (c) Except for variances or exceptions specifically allowed by the special events permit terms, which may include but not be limited to exceptions to requirements or limitations regarding zoning, noise, curfew and operation of vehicles and movement of pedestrians, the special event shall be conducted in compliance with all provisions of the Kiowa Municipal Code and applicable local, state and federal laws and regulations.
- (2) In approving special events permits, the Town Administrator or designee may impose such conditions reasonably necessary to reduce or minimize potential unreasonable adverse impacts upon the health, safety, convenience or general welfare of the citizens of the town. The Town Administrator or designee shall consider characteristics of the proposed event including but not limited to the frequency, duration, hours and days involved in the special event, the number of persons attending, and the number of properties and persons affected. Significant, frequent impacts of long duration between the hours of 11:00 p.m. and 7:00 a.m. that are specific to one or a small number of properties or persons, shall require greater consideration of mitigating conditions than impacts of less significance, frequency and duration occurring between 7:00 a.m. and 11:00 p.m. that are general to large neighborhoods or the town or the public as a whole.
- (3) Permit conditions may include, but are not limited to, the following:

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- (a) Requirements for adequate parking.
 - (b) Requirements for adequate pedestrian and vehicular access and egress.
 - (c) Requirement for adequate emergency services access.
 - (d) Requirements for adequate traffic control.
 - (e) Limits on lighting, sound volume, noise, vibrations, smoke, dust, dirt, odors, gases and heat.
 - (f) Regulation of temporary buildings, structures, and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas.
 - (g) Provision of sanitary facilities.
 - (h) Provision of solid waste collection and disposal.
 - (i) Requirements of trash and debris clean up at the site of the special event and any other public or private property potentially impacted by the special event.
 - (j) Provision of security and safety measures.
 - (k) Provision of emergency services, including emergency medical services.
 - (l) Modification or elimination of certain proposed activities that may have unmitigated and unreasonable adverse impacts.
 - (m) Limitations on the duration, days and hours of public or private attendance at the special event.
 - (n) Limitations on the duration, days and hours of set up, tear down and clean up for the special event.
- (4) Submission of a performance bond or other financial guarantee to ensure that any temporary facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.
 - (5) The Town Administrator or designee may temporarily suspend any special events permit and order a special event to discontinue operations for violation of the terms of this Article or the terms or conditions of the permit. The provisions of this Article and terms and conditions of any special events permit may be enforced by an action brought in the municipal court, which shall have the power to revoke any special use permit and impose fines and penalties as provided generally for violations of the Kiowa Municipal Code.

Article XVII - MEDICAL MARIJUANA

16-17-10. Definitions.

The following words, terms and phrases when used in the Article shall have the following meanings unless the context clearly indicates otherwise:

Medical marijuana, medical marijuana center, medical marijuana infused product, optional premises, and optional premises cultivation operation, shall have the same meanings as set forth

in the Colorado Medical Marijuana Code, Article 43.3, C.R.S., as the same may from time to time be amended.

Patient shall have the same meaning as set forth in Article XVIII, Section 14(1) of the Colorado Constitution.

Primary caregiver shall have the same meaning as set forth in Article XVII, Section 14(1) of the Colorado Constitution and Section 25-1.5-106 C.R.S.

16-17-20. Findings.

The Board of Trustees makes the following findings:

- (1) The Colorado Medical Marijuana Code, C.R.S. Section 12-43.3-1041, et seq., clarifies Colorado law regarding the scope and extent Article XVII, Section 14 of the Colorado Constitution.
- (2) This Article is necessary to protect and is enacted in furtherance of the public health, safety and welfare of the town.
- (3) This Article is intended to apply and shall apply to all property, businesses and business enterprises operating within the town, whether stationary, mobile or virtual.

16-17-30. Uses prohibited.

- (1) It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center, an optional premises cultivation operation or a medical marijuana-infused products manufacturing facility in the town.
- (2) Medical marijuana centers, medical marijuana-infused products manufacturers and optional premises cultivation operations may not be operated as a primary land use, or as an incidental activity to another lawful land use, or as a home occupations.
- (3) It is unlawful for any person who is not registered as a patient or primary caregiver pursuant to 25-1.5-106 C.R.S to cultivate or sell medical marijuana within the town. Any person cultivating or selling marijuana in violation of this Article and Section 25-1.5-106 C.R.S shall not be entitled to the affirmative defense provided in Section 14 of Article XVII of the Colorado Constitution. Notwithstanding the foregoing, the private cultivation of marijuana for private use is permitted pursuant to the Colorado Constitution.

16-17-40. Penalty; nuisance declared.

- (1) It is unlawful for any person to violate any provision of this Article. Any such violation is hereby designated a criminal offense and any person found guilty of violating any of the provisions of the Article shall, upon conviction thereof, be punished by a fine or imprisonment or both pursuant to section 16-22-60 and Article IV of Chapter 1 of this Code. Each day that a violation of any of the provisions of this Article continues to exist shall be deemed a separate and distinct violation.
- (2) The conduct of any activity or business in violation of this Article is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the enforcement of the zoning code provided in section 16-22-60 of this Code. All violations of this Article shall be considered an emergency violation as provided in section 16-22-60 of this Code.

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- (3) The town is specifically authorized to seek an injunction, abatement, restitution, or any other remedy necessary to prevent, enjoin, abate or remove the violation.
 - (4) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity.
 - (5) There shall be no appeals to the Board of Trustees as provided in section 16-22-70 of the zoning code for any violation of this Article XVII.

ARTICLE XVIII - MARIJUANA ESTABLISHMENTS

16-18-10. Authority.

The Board of Trustees hereby finds and determines and declares that it has the power and authority to adopt this Article pursuant to the following:

- (1) Article XVIII, Section 16 of the Colorado Constitution;
- (2) The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
- (3) The powers contained in the Town of Kiowa Home Rule Charter;
- (4) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (5) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (6) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (7) Section 31-15-401, C.R.S. (concerning municipal police powers); and
- (8) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses.

16-18-20. Definitions.

The following words, terms and phrases when used in this Article shall have the following meanings unless the context clearly indicates otherwise:

Community grow operation is the growing of marijuana on a single piece of land by a collective group of individuals and/or entities utilizing either individual or shared plots.

Marijuana or *marihuana* means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" or "marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seed of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana club means an entity or place of assembly that allows members and their guests, or any other persons, to consume marijuana or marijuana products whether for-profit or not-for-profit. Marijuana clubs shall not include social gatherings within a residential zone of adults 21 years of age and older, where a fee is not charged, or goods are not sold, or no profit is made by the individual or entity hosting the gathering.

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.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a retail marijuana store, or a community grow operation.

Marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Marijuana products means concentrated marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana products manufacturing facilities and to sell marijuana and marijuana products to consumers.

16-18-30. Uses prohibited.

- (1) It is unlawful for any person to operate, cause to be operated, or permit to be operated, any marijuana establishment or marijuana club within the town, and all such uses are hereby prohibited in any location within the town.
- (2) Marijuana establishments and marijuana clubs may not be operated as a primary land use, or as an incidental activity to another lawful land use, or as a home occupation.

16-18-40. Penalties; nuisance declared.

A violation of the provisions of this Article shall be punishable as follows:

- (1) By a fine or imprisonment, or both, pursuant to section 16-22-60 and Article IV of Chapter 1 of this Code. Each day that a violation of any provision of this Article continues to exist shall be deemed a separate and distinct violation.
- (2) The conduct of any activity or business in violation of this Article is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the enforcement of the zoning code provided in section 16-22-60 of this Code. All violations of this Article shall be considered an emergency violation as provided in section 16-22-60 of this Code.
- (3) The town is specifically authorized to seek an injunction, abatement, restitution, or any other remedy necessary to prevent, enjoin, abate, or remove the violation.

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- (4) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity.
 - (5) There shall be no appeals to the Board of Trustees as provided in section 16-22-70 of the zoning code for any violations of this Article XVIII.

ARTICLE XIX - MOBILE VENDING

16-19-10. Purpose and intent.

The purpose of this Article is to promote the public health, safety and welfare through the permitting and regulations of mobile vendors who operate within the Town of Kiowa. The Board of Trustees recognizes that mobile vendors provide value to the town in the form of jobs, services, sales tax revenue, and entertainment. The provisions of this Article are intended to:

- (1) Preserve the unique character of the Town of Kiowa;
- (2) Protect the public from safety, sanitation, parking, and other hazards and nuisances that could result from mobile vending; and
- (3) Ensure mobile vending occurs only on properties that are compatible in use, location, size, and parking availability for mobile vending.

16-19-20. Definitions.

As used in this Article, unless the context requires otherwise:

- (1) *Area of operation* means the area with a 30-foot circumference of the mobile vendor vehicle unless otherwise specified through a mobile vending permit.
- (2) *Long-term mobile vending* means mobile vending that occurs on the same property for a time period exceeding three consecutive days, or totaling more than ten days within a 365-day period. For purposes of "long-term mobile vending", any part of a 24-hour period in which mobile vending occurs, regardless of total length or duration, is considered a "day."
- (3) *Mobile food vendor* means a retail establishment that provides food services from a mobile vendor vehicle.
- (4) *Mobile vending* means the sale, or intent to sell or offer to the public, any services, goods, wares, or merchandise, including without limitation food or beverage, from a mobile vendor vehicle.
- (5) *Mobile vendor* means a person who sells or attempts to sell, or offers to the public, any services, goods, wares, or merchandise, including without limitation food or beverage, from a mobile vendor vehicle. Mobile vendor includes a mobile food vendor.
- (6) *Mobile vendor vehicle* means a truck, trailer, pushcart, wagon, mobile or temporary stand, motor vehicle or other vehicle, or other appurtenances used to conduct mobile vending; excluding authorized sales on a golf course which will not require a permit.
- (7) *Short-term mobile vending* means mobile vending that occurs on the same property for a time period not exceeding three consecutive days, and fewer than ten total days within a 365-day period or a vendor who provides services from multiple locations within a single

day. For purposes of "short-term mobile vending", any part of a 24-hour period in which mobile vending occurs, regardless of total length or duration, is considered a "day."

- (8) *Licensed mobile premises* means the area approved for the use of mobile vending pursuant to a mobile vending special use permit.

16-19-30. Mobile vendor license.

- (1) *License required for mobile vending.* Every mobile vendor shall obtain a business license from the town before engaging in mobile vending in the town by submitting an application in writing to the town that includes the following information:
- (a) Name and address of the mobile vendor;
 - (b) Driver's license number of the mobile vendor;
 - (c) Identify whether the mobile vendor transacts business as a principal or agent;
 - i. If as an agent, the name and address of the principal;
 - (d) If a mobile food vendor, the kind and classes of food and beverage items to be sold;
 - (e) State sales tax number or certificate of sales tax exemption; and
 - (f) A site plan that includes the following information:
 - i. The distance from the mobile vendor vehicle to any property lines and other structures on the site;
 - ii. Details concerning site access;
 - iii. Location, dimensions and use of any existing structures on the property and property lines;
 - iv. Proposed parking areas to be used and the total number of available stalls;
 - v. The location of any ADA-accessible parking spaces within a proposed parking area; and
 - vi. Any additional information deemed necessary by the Town to review the application.
- (2) *Issuance and term; fees.*
- (a) Upon receipt of a complete application for a mobile vendor license and of the license fee therefor, the Town Clerk shall issue to the applicant a mobile vendor license, authorizing the applicant to engage in business as a mobile vendor in the town. A mobile vendor license shall be signed by the Town Clerk and sealed with the town seal. No such license shall be transferable and shall be good for a period not to exceed thirty (30) days of issuance, subject to the town's discretion. Notwithstanding the foregoing, a mobile vendor license may be good for a period exceeding thirty (30) days when the mobile vendor has obtained a mobile vending permit.
 - (b) The fees under this Article shall be set in the Town's Fee Schedule.

16-19-40. Mobile vending permit.

- (1) *Permit required for long-term mobile vending.* Any person or entity wishing to engage in long-term mobile vending within the Town of Kiowa shall obtain a mobile vending permit. An application for such permit must be submitted to the Town Clerk on forms provided by the town, and shall include the following information at a minimum:
 - (a) The location for which the permit is required. If on private property, a written and signed letter authorizing the use of the property for mobile vending by the owner will be required;
 - (b) A scaled drawing of the dimensions of the proposed mobile vendor vehicle, and any displays, signage, furniture, or other appurtenances thereto;
 - (c) A site plan of the property or properties in which the mobile vendor intends to operate, including an indication of whether the applicant is applying for a specific site designated for such use by the town, and said site plan shall include the following information:
 - i. The distance from the mobile vendor vehicle to any property lines and other structures on the site;
 - ii. Details concerning site access;
 - iii. Location, dimensions and use of any existing structures on the property and property lines;
 - iv. Proposed parking areas to be used and the total number of available stalls;
 - v. The location of any ADA-accessible parking spaces within a proposed parking area; and
 - vi. Any additional information deemed necessary by the town to review the application; and
 - (d) A written plan for waste disposal. Signed approvals should be provided if another party's waste disposal dumpster or trash can is involved;
 - (e) Evidence of all required permits and licenses, including without limitation a Colorado sales tax license, a town business license, town building permits, and if the mobile vending activity includes any food product, a mobile retail food establishment license from the Elbert County Department of Public Health and Environment;
 - (f) Additional information may be requested by the town as appropriate to the particular application, or portions of the information required above may be waived by the planning director or town administrator if it is deemed to be inappropriate to the particular application.
- (2) *Criteria.* The Town clerk may administratively approve an application for a long-term mobile vending permit if the application is complete based on the requirements of section 16-19-40(1) and is appropriate based on the following criteria:
 - (a) Compatibility with this Code;

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- (b) Compatibility with the character of the surrounding area such that the increased utilization of property will not adversely impact neighboring properties with a specific concern towards ensuring that the parking can be handled on site;
 - (c) Long-term mobile vending is permitted only in non-residential zone districts.
 - (d) Orientation and siting with respect to impact on adjacent properties and public ways;
 - (e) Landscaping, including without limitation surface materials, plants, benches, tables, and trash receptacles;
 - (f) Design, size, and placement of signage and awnings; and
 - (g) Appropriateness of lighting.
- (3) *Conditional approval.* The Town Clerk may approve a mobile vending permit with reasonable conditions if such conditions would allow the application to comply with the above-referenced criteria. Such conditions shall be specified in the mobile vending permit.
 - (4) *Modification to permit.* Any changes to location or scope of the long-term mobile vending will require the submission of a modified permit in which the changes are addressed and explained.

16-19-50. Standards of conduct, maintenance, improvement, and repairs.

All long-term and short-term mobile vendors shall comply with the following standards:

- (1) The mobile vendor shall ensure that the area of operation, including the sidewalks, roadways and other spaces adjacent to the mobile vendor's business location, is kept clean, free of trash, and in compliance with any applicable section of this Code, including being kept free of nuisances and outdoor storage. Mobile vendors shall empty and remove their trash, including all trash containers maintained by the mobile vendor, from the area of operation upon the closing of any day of operation.
- (2) The mobile vendor shall post its hours and days of operation to the public with appropriate signage on its mobile vendor vehicle. Signage shall be permanently affixed to the mobile vendor vehicle. During hours of operation, a mobile vendor may affix one (1) menu or sandwich board.
- (3) A long-term mobile vendor shall be open a minimum of 24 hours per week when parked on a permitted premises.
- (4) Parking must be accommodated either on the property in which the mobile vending takes place or through public parking spaces. It is unlawful for property owners hosting a mobile vendor on their property to prevent customers of the mobile vendor from utilizing the property's off-street parking.
- (5) Mobile vendors may not operate in public parking spaces in permitted non-residential zone districts without prior approval.
- (6) It is unlawful for a mobile vendor to operate within 20 feet of an intersection, in public rights-of-way, or operate in any area so as to interrupt or interfere with the normal flow of vehicular traffic.

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- (7) It is unlawful for a mobile vendor to stop or to place a mobile vending vehicle, food, tables, chairs or other fixtures, furniture, devices, generators, or awnings used to conduct the operations of a mobile vendor so as to obstruct the free travel of pedestrians or vehicles. Additional structures, canopies, tables, and chairs associated with the operation of a mobile vendor vehicle are prohibited unless otherwise expressly permitted by the Town.
 - (8) It is unlawful to engage in mobile vendor operations upon any property without the express written permission of the owner.
 - (9) Mobile vendors may only operate between the hours of 5:00 a.m. and 11:00 p.m.
 - (10) It is unlawful for any person to operate as a mobile vendor within the town without first obtaining a business license from the Town, Colorado sales tax license, and a mobile retail food establishment license from the Elbert County Department of Public Health and Environment if the vendor includes any food product.
 - (11) It is unlawful for any person to operate as a long-term mobile vendor without first obtaining a mobile vending permit.
 - (12) It is unlawful for any person to operate as a mobile vendor on public property without prior approval.
 - (13) Unless a mobile vendor receives prior written consent from a restaurant owner, a mobile vendor and mobile vendor vehicle shall operate 100 feet from a restaurant while the restaurant is open for business, as measured from the property line of the operating restaurant to the closest point of the mobile vendor vehicle.
 - (14) A mobile vendor vehicle shall not occupy on-street parking spaces while operating.
 - (15) A mobile vendor vehicle shall be set back at least 20 feet from the front property line unless the building setback in a zone district is less than 20 feet, in which case the mobile vendor vehicle shall comply with the front building setback in the underlying zone district.
 - (16) A mobile vendor vehicle shall comply with the side and rear building setback requirements in the underlying zone district.
 - (17) A mobile vendor shall obey all parking and traffic laws.
 - (18) A mobile vendor vehicle shall not be parked in any ADA-accessible parking spaces.
 - (19) A mobile vendor vehicle shall be parked and operated on paved or all-weather surfaces.
 - (20) A mobile vendor vehicle that occupies parking spaces must ensure that the parking spaces that remain unobstructed accommodate parking for the principle use of the property.
 - (21) Mobile vendor vehicles are prohibited in single-family residential zoning districts, except in circumstances of block parties or special events wherein the mobile vendor will seek and shown written permission to park in front of specified residence by the homeowner hosting the block party or special event. When not in use, a maximum of one mobile vendor vehicle may be stored on property used for single-family, duplex, or multi-family dwellings.

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- (22) Prior to the operation of a mobile vendor vehicle within a multi-tenant shopping center, the property owner shall provide written notice to the tenants of such shopping center.

16-19-60. Suspension and revocation.

- (1) Grounds for suspension or revocation of a permit and business license issued under this Article shall include, without limitation:
- (a) A violation of any provision of the permit, this Article or any other applicable law;
 - (b) Conducting mobile vending activities in such a manner as to create a public nuisance or constitute a danger to the public health, safety and welfare;
 - (c) Failure to pay state or local taxes that are related to the operation of the business associated with the permit or license; or
 - (d) Fraud, misrepresentation or a false statement of material fact contained in the original or renewal permit or license application.
- (2) The Town Clerk shall deliver certified written notice to the permittee and property owner stating the action taken and the reason supporting such action. The written notice may be hand-delivered to the permittee and property owner, emailed to the addresses provided on the application, and/or certified mail to the permittee's and property owner's last known mailing address. This section supersedes the revocation process set forth in section 16-22-60.

16-19-70. Enforcement.

Enforcement of this Article is pursuant to the provisions of section 16-22-60.

16-19-80. Appeal.

An appeal of any decision by the Town Clerk made pursuant to this Article, including denial, suspension, or revocation of a permit, may be made by filing with the town a written notice of appeal to the Town Administrator, pursuant to the requirements and process set forth in section 16-22-70.

ARTICLE XX - LOCATION AND EXTENT REVIEW FOR DEVELOPMENT OF PUBLIC FACILITIES

16-20-10. Intent.

The location and extent of public uses and facilities as provided by Section 31-23-209, C.R.S., that are not permitted within the applicable zone district shall be subject to review pursuant to this Article. The intent of this Article is to define the factors to be considered in the "location and extent" process, and to prescribe procedures for the orderly consideration of a location and extent application in order to effect the purposes of the state statute. Any public use or facility commenced within the town prior to the adoption of this Article that was not approved pursuant to a location and extent process may, but is not required to, subsequently seek approval pursuant to this Article.

16-20-20. General requirements and procedure.

- (1) No street, road, square, park, public way, ground, or open space, no public building or structure, or publicly or privately owned public utility shall be constructed or authorized in the Town of Kiowa unless and until the proposed location, character and extent thereof has been submitted to and approved by the Kiowa Planning commission at a public meeting. Routine extensions of public utility lines and minor modifications to existing facilities shall not be subject to this procedure.
- (2) If the Planning Commission disapproves of the proposed public facility, the commission shall communicate the reasons for such disapproval to the town board, which has the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership.
- (3) If the public way, ground space, building, structure or utility is one the authorization or financing of which does not, under the law or charter provisions governing the same, fall within the province of the town board, the submission to the Planning Commission shall be by the governmental body having jurisdiction and the commission's disapproval of such application may be overruled by said governmental body having jurisdiction by a vote of not less than two-thirds of its membership, Section 31-23-209, C.R.S..
- (4) The failure of the Planning Commission to act within 60 days from and after the date of official submission of the location and extent application to the commission shall be deemed approval, Section 31-23-209, C.R.S.
- (5) The Planning Commission, and the town board when applicable, may approve the proposed public facility as submitted, approve it with conditions, or deny the facility. The conditions to be imposed are those necessary, at the discretion of the Planning Commission or town board, to mitigate or eliminate any adverse impacts of the proposed facility on the surrounding area.
- (6) Upon approval of the location and extent application, the applicant shall submit a location and extent plat consisting of an original drawing in black ink on 24-inch by 36-inch single/double matte mylar to the town for the signature of the chair of the Planning Commission. The mylar will be kept on file at the town.
- (7) Approval of a location and extent application shall be subject to stipulations and/or conditions precedent which the applicant is deemed to accept by preparing a reproducible mylar for signature by the chair of the Planning Commission within 60 days from approval date. If no mylar is submitted, the planning director shall recommend the Planning Commission rescind approval of the application.
- (8) After the commission chair signs the mylar, a building permit may be issued upon a proper application and the location and extent application shall be considered to be approved.

16-20-30. Submittal requirements.

- (1) The location and extent application shall be submitted in an electronic format acceptable to the town and shall contain the following information:
 - (a) Name of proposed facility.
 - (b) Land area and legal description.

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- (c) Vicinity map (one mile radius with emphasis on major roadways).
 - (d) Proposed land use for each area and its area in square feet.
 - (e) Existing and proposed public and private rights of way serving the site, types of surfacing and width of paving.
 - (f) The existing zoning of the property to be used, as well as the zoning and residential density of all adjacent properties.
 - (g) All easements and drainageways should be identified.
 - (h) Existing and proposed finished grade topography shown at two-foot contours, corresponding with datum acceptable to the town.
 - (i) The location(s) and dimension(s) of all existing and proposed structures, the use(s) to be located therein, the building elevations, gross floor area and locations of entrances and loading points.
 - (j) Location of outdoor waste disposal systems.
 - (k) All existing and proposed curb cuts, driveways, parking (including number of spaces) and storage areas.
 - (l) The location(s) and dimension(s) of existing curb cuts and driveways on adjacent properties and across right-of-way.
 - (m) All walks, open space and recreation areas with a description of these improvements.
 - (n) An illustrative landscape plan showing locations, general types and sizes of all proposed landscaping materials, fences, walls, planters and any other landscaping features.
 - (o) Provisions for access by emergency vehicles.
 - (p) Signage and lighting devices fully detailed.
 - (q) Utility lines and appurtenances.
- (2) Applicant shall provide a public improvement guarantee, in the form of a dedication of rights-of-way, sidewalk construction, etc., if required by the Planning Commission.
 - (3) Additional information may be requested for inclusion by the town administrator or the town administrator's designee if appropriate to the application, and information required above may be waived by the town administrator or the town administrator's designee if it is deemed to be inappropriate to the application.

16-20-40. Amendments.

- (1) *Minor changes.* The town administrator or the town administrator's designee will make the determination of whether the proposed amendment to the location and extent application is minor. Appeals of that determination may be made to the Planning Commission. If the changes are deemed minor, the minimum requirements are: one completed application form, one letter of intent, and one revised reproducible mylar of the amended location and extent plat for signature of the chair of the Planning Commission.

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- (2) *Significant changes.* If the town administrator or the town administrator's designee determines that the changes are significant, the proposed amendment to the location and extent application shall require a resubmittal of documents and a meeting of the Planning Commission for approval of the changes.
 - (3) *Location and extent amendment documentation.* An amended location and extent application shall contain all the original information, plus the items that are being changed. When possible, the development standards should appear in a chart format comparing the approved and proposed standards. Also, an amendment history must be added to the document. If the amendment is required to be approved by the Planning Commission, the submittal requirements for the location and extent application described in section 16-20-30 shall be required for the amendment.

ARTICLE XXI - BUILDING PERMITS

16-21-10. Required.

No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the building official. Building permits shall be issued in conformity and compliance with the provisions of the latest adopted version of the building code, the Kiowa Municipal Code, including but not limited to the land use code, and the applicable zoning, PUD and subdivision plat for the affected lot.

16-21-20. Expiration and cancellation.

- (1) If the work described in any building permit has not begun within 90 days from the date of issuance thereof, the permit shall automatically expire without any further action by the town or notice to the permittee, except the building official may extend the expiration date upon good cause being shown in writing for failure to begin construction as required. Any such extension so granted shall be in writing. Any fees paid to the town, other than the application fee and any review fees for the building permit, in conjunction with the issuance of the building permit which has expired may be returned or refunded as determined by the town administrator.
- (2) If the work described in any building permit has begun, but has not been substantially completed within 16 months of the date of issuance thereof, the building permit shall automatically expire without any further action by the town or notice to the permittee.
- (3) Any fees paid to the town, other than the application fee and any review fees for the building permit, in conjunction with the issuance of the building permit, for a project that never started may be refunded as determined by the town administrator.
- (4) Upon the expiration of any building permit, the building official shall make a reasonable effort to provide the permittee with written notice of the expiration and that further work as described in the expired building permit shall not proceed unless and until a new building permit is obtained. Failure of the building official to provide this notice shall not invalidate the expiration of a building permit for failure to begin or substantially.

ARTICLE XXII – ADMINISTRATION AND ENFORCEMENT

16-22-10. Planning Commission.

- (1) The members of the Planning Commission shall be appointed by the Board of Trustees for a term of four (4) years. Appointments to the Planning Commission shall be made in January following the Town's general municipal election in November, and the members so appointed shall take office at the first meeting following their appointment and continue until December 31st of the 4th year after appointment. Terms shall be staggered. A vacancy shall be filled for the remainder of the vacant office.
 - (a) The Planning Commission shall consist of a minimum of five (5), but no more than nine (9), members appointed by the Board. The Board may, by resolution, increase the minimum requirement of five (5) members and appoint additional voting members to the Planning Commission, as long as the number of voting members on the Planning Commission remains an odd-number (7 or 9). The Board may, by resolution, appoint an even-numbered member (6 or 8) to the Planning Commission, but said member shall be treated as an alternate and may only vote when the number of present voting members is an even number due to absence or once an additional odd-numbered member is appointed to the Planning Commission. An alternate member may become a voting member if an existing voting member vacates or is removed from office by the Board. The number of Planning Commissioners shall be set by resolution adopted by the Board.
 - (b) The appointment of a member to the Planning Commission shall require a majority vote of the Board, and removal of a member shall require a two-thirds affirmative vote by the Board and, in no case, fewer than five (5) affirmative votes for removal.
 - (c) Membership shall be composed as follows:
 - i. At least four (4) members, and at all times no less than a majority of the voting members serving on the Planning Commission, shall be residents of the Town who have resided in the Town continuously for at least one (1) year immediately preceding the date of the member's appointment, and who shall hold no other office or position with the Town.
 - ii. One (1) member, and at all times less than the total number of serving resident voting members, may be a nonresident, who owns a business that has a physical business address and operates within the corporate limits of the Town. If the business is owned by an entity, the entity must be a duly organized or formed Colorado entity, in good standing with the Colorado Secretary of State, and said entity may designate one officer of the entity to act as the representative of the entity on the Planning Commission. Once appointed by the Board, the designated officer of the entity cannot be changed by the entity without approval by the Board.
 - (d) Whenever a vacancy occurs, the Board of Trustees shall cause public notice of such vacancy to be made and encourage qualified persons to seek appointment. If an alternate is appointed to the Planning Commission at the time of the vacancy, the alternate shall fill the vacancy for the remainder of the vacated office's term without any additional action by the Board of Trustees unless such action would violate the membership composition required above.

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- (2) Annually, at the first regular meeting in January, the Planning Commission shall elect from its membership a chairperson and vice-chairperson, with each being eligible for reelection.
 - (3) The chairperson shall preside at all meetings and public hearings of the Planning Commission and shall decide all points of order and procedure. The chairperson shall also certify plans and plats, if required by the Town's Code, and shall cause reports and recommendations of the Planning Commission to be transmitted to the Board of Trustees.
 - (4) The vice-chairperson shall assume the duties of the chairperson in the absence of the chairperson. Should the vice-chairperson and the chairperson be absent from a meeting or public hearing, a majority of the members of the Planning Commission in attendance shall appoint a member to serve as the presiding officer for that meeting or public hearing.
 - (5) The town clerk shall transmit to the chairperson all official correspondence received by the town which may require consideration or action by the Planning Commission.
 - (6) The Board of Trustees may replace any member of the Planning Commission if that member misses more than three (3) consecutive regular meetings or five (5) regular meetings in a one-year period, unless the absences were due to reasons determined to be valid by majority vote of the Planning Commission.
 - (7) Regular meetings shall be held upon notice as required by Colorado Law, on such days and at such times as set from time to time by resolution of the Board of Trustees. Special meetings may be called as necessary by the chairperson or a majority of the members of the Planning Commission at any regular meeting or upon 24 hours actual notice to all members, and such other notice as required by Colorado law. Attendance by a member at any meeting shall constitute conclusive evidence of adequate notice. Any member may waive the actual notice requirement for special meetings at any time.
 - (8) The Planning Commission shall adopt rules and regulations that control its operations and procedures, including public notice requirements that comply with the Colorado Open Meetings Law.
 - (9) No official action may be taken at a meeting unless a quorum is present. A quorum shall consist of a majority of the appointed members. A majority of the members present must vote in the affirmative on a motion for the motion to pass. A recused member may be counted to meet quorum, but a majority of the quorum must vote in the affirmative on a motion for the motion to pass. Once a quorum is established, it is not automatically destroyed if a member leaves before the end of the meeting, and business of the Planning Commission may continue as if a quorum continues to exist. If a member refuses to vote on a motion, then that member's vote shall be counted as a negative vote against the motion.

16-22-20. Authority to grant variances.

The Planning Commission may grant variances in respect to any building or structure classified under these regulations, and may issue a variance for such building or structure in accordance with the procedures set forth in this Chapter 16.

16-22-30. Imposition of fees.

The Board of Trustees may, by resolution, adopt a Fee Schedule to establish the fees to be imposed for applications for any permit, variance, rezoning, or other action under this Chapter.

Any fee collected with an application shall be for the Town's administrative expenses in processing the application, whether the application is granted or denied.

16-22-40. Payment of expenses for professional services.

- (1) All applicants shall be required to execute a charge back agreement with the Town, in a form approved by the Board of Trustees and the Town Attorney, to cover the actual costs incurred by the Town, including, without limitation, inspection, publication of notice, administrative materials, recording costs, and all costs of professional and consulting services that the Town incurs as a result of processing an application (collectively, "Application Costs"). Professional and consulting services include, but are not limited to, planning, legal, engineering, and hydrological services. The process for reimbursement of Application Costs shall be as follows:
 - (a) The applicant shall deposit with the Town an initial amount, as set forth in the Town's Fee Schedule, for the application type submitted. The deposit shall be used by the Town to reimburse the Town for Application Costs.
 - (b) The Town will send the applicant a monthly statement identifying charges for Application Costs applied against the deposit account and for any outstanding balance due if the funds in the deposit account were not sufficient to cover the total monthly costs of the Application Costs. The applicant shall pay the amount due on the statement within fifteen (15) days of the date of issuance of such statement. The amount due shall include the amount needed to replenish the deposit account to the initial deposit amount required by the Town plus any outstanding balance due if the funds in the deposit account were not sufficient. The Town may determine that the initial deposit amount is insufficient to cover future Application Costs and may require additional payment from the applicant to maintain a higher deposit balance.
 - (c) In the event the applicant fails to pay the amount due on the statement within the time period specified above, the Town may immediately stop the review process for the application, withhold permits or approvals, cancel hearings, and deny the application until the required amount is paid in full. The application may be deemed withdrawn by the Board of Trustees if the statement is not paid in full within thirty (30) days of the date of issuance of the statement. If the statement is not paid in full within thirty (30) days after issuance of the statement, in addition to the application being deemed withdrawn, the Town shall impose interest on the amount due and outstanding at the rate of one and one-half percent (1.5%) per month from the date when due.
 - (d) In addition to the Town's remedies to stop the review process upon nonpayment of such statement, and to impose penalty interest, the Town shall additionally possess the right to initiate an enforcement action against the applicant for nonpayment of such fees. Such enforcement action may be initiated either in the Elbert County District Court or County Court or in the Kiowa Municipal Court. In the event such collection action is determined in favor of the Town, the Town shall be awarded its attorneys' fees and court costs in addition to the unpaid fees as part of any judgment. The payment of fees or the costs of professional and consulting services under this Section shall be due and payable as set forth within this Section, regardless of whether the project is completed or approved, and/or regardless of whether the applicant chooses to complete the Town's land review process.

16-22-50. Development Impact Fees.

Any person who seeks approval of a land development activity resulting from annexation, subdivision, zoning, approval of a planned unit development, or issuance of a conditional use permit, special use permit or variance, any of which require additional public services, shall pay development impact fee as provided in Chapter 4 of the Kiowa Municipal Code, together with any other impact fee or fees approved and authorized by the Board of Trustees.

16-22-60. Enforcement.

- (1) *Enforcement powers.* The town administrator, the town planner, the code enforcement officer and their designees, shall have the duty to enforce this zoning code and the powers necessary for such enforcement, including but not limited to the following:
 - (a) Conduct investigations and surveys to determine compliance or noncompliance with the provisions of this zoning code, including reinvestigations of any land or structure to investigate alleged violations of the zoning code and to determine if a violation under an earlier notice or order has been corrected.
 - (b) Enter into agreements with violators for the abatement of zoning violations.
 - (c) Issue written orders requiring compliance with the provisions of this zoning code.
 - (d) Issue notices of violations for noncompliance with the provisions of this zoning code and take action to abate violations of this zoning code in the same manner as provided in Article IV of Chapter 1 of the Code.
 - (e) Institute, in courts of proper jurisdiction, proceedings to enforce the provisions of this zoning code, administrative orders and determinations made hereunder, and settlement agreements made hereunder.
- (2) *Noncompliance prohibited.* It shall be deemed a strict liability offense for any owner, lessee, occupant or agent of such person to allow or permit to exist, or to otherwise let happen, any condition or to take any action not permitted by the zoning code on the land or in the structure to which the owner, lessee, occupant, or agent has legal or equitable title or right of possession.
- (3) *Enforcement and abatement.* The town administrator, the town planner, the code enforcement officer and their designees may enforce violations of this zoning code pursuant to the investigation, notice, abatement, and enforcement procedures outlined Article IV of Chapter 1 of the Code.
- (4) *Additional remedies.* In addition to all other remedies available, the town may take any of the following remedial actions to enforce this zoning code:
 - (a) *Deny/withhold permits.*
 - i. The town may deny and withhold any permit, license, business license, certificate, variance, or other form of authorization to use or develop any land, structure or improvement thereon for any property which is subject to, or any property owner, agent or other person who has any outstanding violation of chapters 16, 17 or 18 of the Kiowa Municipal Code until the violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant is responsible for the violation.

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- ii. The denial or withholding of a permit may be appealed to the Board of Trustees as provided in section 16-22-70.
- (b) *Revocation of permits.* The Board of Trustees, after notice and a public hearing, may revoke any permit, license, business license, certificate, variance, building permit or other authorization to use or develop any land, structure or improvement.
- i. *Notice of public hearing.* The public hearing on the revocation of a permit, variance, building permit or other authorization shall be conducted during a regular or special meeting of the Board of Trustees not less than fourteen (14) days from the date the notice is given. Notice of the hearing shall be deemed given to the owner, the owner's agent, or other person to whom the development permit, variance, building permit or other authorization was issued, upon deposit of said notice in the U.S. mail, sent as certified or registered mail, addressed to the last known address of said person. Additional methods of notice may be utilized to give notice of the public hearing at the discretion of the town attorney.
 - ii. *Findings.* Following the public hearing, the Board of Trustees, upon a finding of any of the following, may revoke any permit, license, business license, certificate, variance, building permit, or other authorization to use or develop any land, structure or improvement:
 - 1. There is a departure from the approved plans, specifications, or conditions of approval;
 - 2. There is a violation of any provision of Chapters 15, 17 or 18 of the Code;
 - 3. The permit, variance, building permit or other authorization was obtained by false representation; or
 - 4. The permit, license, business license, certificate, variance building permit or other authorization to use or develop was issued in error.
 - iii. *Notice of revocation.* Written notice of revocation shall be served upon the owner, owner's agent, applicant or other person to whom the permit, license, business license, certificate, variance building permit or other authorization to use or develop was issued in error, by certified or registered mail. Such notice shall also be posted in a prominent location at the place of the violation. No work or construction at or use of the property shall proceed after service of the notice of revocation.
- (c) *Stop work order.* The town may issue a written order to stop work on any property where the building official finds any work regulated by the Code being performed in a manner either contrary to the provisions of this Code or dangerous or unsafe, or when there is a violation of a provision of this zoning code, any provision of the Code, or a provision of the permit, license, business license, certificate, variance, building permit, or when an authorization to use or develop was issued in error. The stop work order shall specify the specific violation alleged and any appeal and/or variance procedures available and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work, either in person or by posting notice on the premises. Upon issuance of a stop work order, the cited work shall immediately cease. Any person who shall continue any work after having been served a stop work order shall be subject to fines as set forth

in Article IV of Chapter 1 of the Code for each day work continues after issuance of the stop work order.

- (5) *Remedies cumulative.* The remedies provided for violations of this zoning code shall be cumulative and in addition to any other remedy provided by law and may be exercised in any order.
- (6) *Liability of town.* The zoning code shall not be construed to hold the town responsible for any damages to persons or property by reason of the inspection or reinspection, by reason of the failure to inspect or reinspect, by reason of issuing any permit, or by reason of pursuing or failing to pursue any action to enforce any provision of the Code or obtain injunctive relief.

16-22-70. Appeals.

- (1) *Powers and Duties.*
 - (a) The Planning Commission shall hear and decide all questions on appeal from final decisions, orders, requirements, interpretations, and determinations made by an administrative official of the Town charged with the enforcement of this Code.
 - (b) The Board of Trustees shall hear and decide all questions on appeal from a final decision, order, requirement, interpretation, and determination made by the Planning Commission, including appeal decisions of the Planning Commission.
- (2) *Notice of appeal.* Any aggrieved person of interest may appeal a denial of any application under this Chapter, the conditions imposed upon any approval of an application, or any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of this Code or the Planning Commission by filing a written notice of appeal with the town clerk and paying the fee set by the current Fee Schedule.
- (3) *Time for appeal.* Any appeal must be filed within fourteen (14) days after a final decision is made at a public meeting at which the appellant is present or is required to be present at by this Code, or if final decision is made outside of a public meeting, then appeal must be filed within fourteen (14) days of receipt of written notice of a final decision mailed to the applicant. Written notice shall be deemed received three (3) business days following the date the written notice is placed in the US mail, sent first class, postage pre-paid. Failure to make timely appeal shall be considered a waiver of the appellant's right to appeal.
- (4) *Record.* The Town Clerk shall forward a copy of the notice of appeal to the Town Administrator or other appropriate administrative officer, who shall prepare a record of the town action that is being appealed for consideration by the Planning Commission or Board of Trustees, as applicable.
- (5) *Stay.* An appeal stays all proceedings in furtherance of the action appealed unless the administrative officer or Commission from whom the appeal is taken certifies to the appeal hearing body after the notice of appeal has been filed that, by reason of facts stated in the certificate, a stay would, in the administrative officer's or the Commission's opinion, cause imminent peril to life or property, in which case proceedings in furtherance of the action shall not be stayed otherwise than by a restraining order which may be granted by the appeal hearing body or by the municipal court on application, on notice to the administrative officer or the Commission from whom the appeal is taken, and on due cause shown.

- (6) *Public hearing and action on appeal.* Appeals shall be heard and decisions of the hearing body shall be made at a public hearing, notice of which shall be provided as set forth in section 16-22-80. The names and addresses of the adjacent property owners required to be notified shall be determined by the appellant as such owner's names and addresses may appear in the tax records of Elbert County, and such information shall be submitted to the town clerk with the notice of appeal. At the public hearing, appellant shall have the burden of proof to establish facts to warrant favorable action by the appeal hearing body. The appeal hearing body shall have all the powers of the applicable town administrative official or the Planning Commission on the action appealed. The appeal hearing body may in whole or in part affirm, reverse, or amend the decisions of the applicable town administrative official or the Planning Commission. The appeal hearing body may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of the Zoning Code. The concurring vote of two-thirds of the appeal hearing body shall be necessary to reverse any order, requirement, interpretation, or determination of any administrative official or the Planning Commission. No single decision of an appeal hearing body shall set a precedent for future appeals. Any decision of the appeal hearing body shall be made on the particular facts of each case as presented at the public hearing.
- (7) *Appeal criteria.* The appeal hearing body, in hearing an appeal, shall consider only the criteria required to be considered by the original decision-maker by any applicable provisions of the zoning code.
- (8) *Appeals to municipal court.* Decisions of the Board of Trustees shall be subject to review by the Town's municipal court by filing a complaint that includes the specific allegations of error no more than fourteen (14) days after the final decision by the Board of Trustees. The municipal court's review shall be limited to a determination of whether the board exceeded its jurisdiction or abused its discretion, based on the evidence in the record before the board. Any appeal of the decision of the municipal court shall be brought in district court as a civil matter pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

16-22-80. Notice requirements.

Certain zoning actions require a public hearing, notice of which shall be given in the manner and within the times set forth in the following notice requirements:

Type of Action	Section	Hearing Requirement	Publish Notice in Newspaper	Service or Mailing	Posting
Major Text Amendment	16-3-20(3)	BOT	14 days	n/a	n/a
Comprehensive Zoning Map Amendment	16-3-30	BOT	14 days	n/a	n/a
Rezoning (1 st Hearing)	16-3-40(5)	PC	14 days	14 days	14 days
Rezoning (2 nd Hearing)	16-3-40(8) and (9)	BOT	14 days	14 days	14 days
PUD Sketch-Plan (Discretionary)	16-8-70	PC	14 days	n/a	n/a

PUD Preliminary Plan	16-8-120	PC	14 days	n/a	n/a
PUD Preliminary Plan	16-8-140	BOT	14 days	14 days	14 days
PUD Major Amendment	16-8-180(4)(b)	PC	14 days	n/a	n/a
PUD Major Amendment	16-8-180(4)(b)	BOT	14 days	14 days	14 days
Special Use Permit	16-13-50	PC	14 days	14 days	14 days
Variance	16-14-30	PC	14 days	14 days	14 days

16-22-90. Posting.

- (1) *Responsibility.* Posting of a sign on the property giving notice of a public hearing shall be the responsibility of the applicant. Staff shall advise the applicant in writing of this posting requirement and the location and number of signs required for the application. All signs must be prepared by or for the applicant at the applicant's expense. All signs must be posted on the property not less than number of days required under Section 16-22-80 for the application type prior to the public hearing held thereon. The applicant must take a clear and distinct photograph of the sign(s) and submit the photograph(s) to the town immediately upon posting the property. No later than noon on Friday prior to the scheduled public hearing, the applicant shall present a certificate of posting in the following form to the town.
- (2) *Certificate of posting.*

Certificate of Posting

I hereby certify under oath that a sign (or signs (____)) was posted on the property known by street name and number as _____ on _____, 20____, at least _____ days prior to the public hearing on the Application for _____, as shown in the photograph(s) submitted in support of this Certificate, as notice of this public hearing before the Planning Commission/Board of Trustees on _____, 20____ at _____.m.

Dated this ____ day of _____, 20____.

Applicant

State of Colorado)
) ss.
County of Elbert)

Subscribed and sworn to before me this ____ day of _____, 20____ by _____ as Applicant.

My commission expires _____.

Notary Public

Failure to timely present the certificate of posting and submit the photograph(s) to the Town will result in a rescheduling of the public hearing and require a new posting of notice on the property.

- (3) *Sign specifications.* A sign for posted notice shall not be less than three feet by four feet in size, and it shall be erected on posts no lower than four feet above natural grade and be legible from the nearest dedicated public right-of-way. Title of the sign shall be in letters not less than five inches in height. Said sign shall be removed by the applicant within two weeks of the conclusion of the public hearing. A sample format for the sign may be provided by the Town.

16-22-100. Fast Track Review Process for Affordable Housing Developments

Board of Trustees Adopted Policy Number 25-060, the “Fast Track Review Process for Affordable Housing Developments Policy,” was adopted by Town Board of Trustees’ Resolution No. 2025-15 (the “Fast Track Review Policy”), and it is incorporated herein, and as it may be amended from time to time. The provisions in this Code shall be interpreted to implement the processes in the Fast Track Review Policy, when applicable.

ARTICLE XXIII - Floodplain Regulations

16-23-10. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application:

- (1) *Alluvial fan flooding* means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
- (2) *Apex* means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- (3) *Area of shallow flooding* means a designated AO, AH, or VO zone on the Town's Flood Insurance Rate Map (FIRM) with a one (1) percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (4) *Special flood hazard area* is the land in the floodplain within the Town subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map (FIRM). After detailed ratemaking has been completed, Zone A usually is refined into Zones A, AE, AH, or AO.
- (5) *Base flood* means the flood having a one (1) percent chance of being equaled or exceeded in any given year.
- (6) *Base Flood Elevation (BFE)* means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH,

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- AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one (1) percent chance of equaling or exceeding that level in any given year.
- (7) *Basement* means any area of the building having its floor sub-grade (below ground level) on all sides.
 - (8) *Conditional Letter of Map Revision (CLOMR)* means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.
 - (9) *Critical facility* means a structure or related infrastructure, but not the land on which it is situated, as specified in Article 5, Section H, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Article 5, Section H.
 - (10) *Development* means any manmade change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
 - (11) *Elevated building* means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.
 - (12) *Existing construction* means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
 - (13) *Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
 - (14) *Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
 - (15) *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.

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- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- (16) *Flood insurance rate map (FIRM)* means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (17) *Flood insurance study* is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Insurance Rate Maps.
- (18) *Floodplain* or *flood-prone* area means any land area susceptible to being inundated by water from any source (see definition of flooding).
- (19) *Floodplain Administrator* means the community official designated by title to administer and enforce the floodplain management regulations.
- (20) *Floodplain development permit* means a permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.
- (21) *Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- (22) *Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- (23) *Flood protection system* means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- (24) *Flood proofing* means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (25) *Floodway (regulatory floodway)* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The

Colorado Statewide standard for the designated height to be used for all newly studied reaches shall be one-half (½) foot (six (6) inches). Letters of map revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

- (26) *Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- (27) *Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (28) *Historic structure* means any structure that is:
 - (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (c) Individually listed on a State Inventory of Historic Places in states with historic preservation programs which have been approved by the Secretary of Interior; or
 - (d) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - i. By an approved State program as determined by the Secretary of the Interior or;
 - ii. Directly by the Secretary of the Interior in states without approved programs.
- (29) *Letter of Map Revision (LOMR)* means FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).
- (30) *Letter of Map Revision Based On Fill (LOMR-F)* means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
- (31) *Levee* means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- (32) *Levee system* means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- (33) *Lowest floor* means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking

and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

- (34) *Manufactured home* means a structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- (35) *Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
- (36) *Mean sea level* means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- (37) *New construction* means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- (38) *New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- (39) *Recreational vehicle* means a vehicle which is:
 - (a) Built on a single chassis;
 - (b) Four hundred (400) square feet or less when measured at the largest horizontal projections;
 - (c) Designed to be self-propelled or permanently towable by a light duty truck; and
 - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (40) *Start of construction* includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings,

the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- (41) *Structure* means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- (42) *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
- (43) *Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
 - (a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
 - (b) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- (44) *Variance* is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)
- (45) *Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
- (46) *Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

16-23-20. General provisions.

- (1) Lands to which this Article applies. The Article shall apply to all areas of special flood hazard and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the Town.

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- (2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Elbert County, Colorado and Incorporated Areas," effective March 17, 2013, with accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.
 - (3) Establishment of development permit. A development permit shall be required to ensure conformance with the provisions of this Article.
 - (4) Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Article and other applicable regulations.
 - (5) Abrogation and greater restrictions. This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
 - (6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
 - (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and
 - (c) Deemed neither to limit nor repeal any other powers granted under State statutes.
 - (7) Warning and disclaimer or liability. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

16-23-30. Administration.

- (1) Designation of the Floodplain Administrator. The Board of Trustees hereby appoints the Town Administrator as the Floodplain Administrator to administer and implement the provisions of this Article and other appropriate Sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- (2) Duties and responsibilities of the Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
 - (a) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
 - (b) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

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- (c) Review, approve or deny all applications for development permits required by adoption of this ordinance.
 - (d) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 - (e) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
 - (f) Notify, in riverine situations, adjacent communities and the State Coordinating Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (g) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
 - (h) When base flood elevation data has not been provided in accordance with Section 16-23-20(2), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
- (3) Permit procedures. Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
- (a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - (c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 16-23-40(2)(b);
 - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - (e) Maintain a record of all such information in accordance with Section 16-23-30(2)(a).
- (4) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
- (a) The danger to life and property due to flooding or erosion damage;
 - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

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- (c) The danger that materials maybe swept onto other lands to the injury of others;
 - (d) The compatibility of the proposed use with existing and anticipated development;
 - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (g) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - (h) The necessity to the facility of a waterfront location, where applicable;
 - (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (j) The relationship of the proposed use to the comprehensive plan for that use.
- (5) Variance procedures.
- (a) The Planning Commission shall hear and render judgment on requests for variances from the requirements of this ordinance.
 - (b) The Planning Commission shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
 - (c) Any person or persons aggrieved by the decision of the Planning Commission may appeal such decision pursuant to Article XXII of this Code.
 - (d) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
 - (e) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors for variances have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
 - (f) Upon consideration of the factors noted above and the intent of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article.
 - (g) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (h) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

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- (i) Prerequisites for granting variances:
 - i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - ii. Variances shall only be issued upon:
 - 1) Showing a good and sufficient cause;
 - 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - 3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - iii. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - (j) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. The criteria outlined in this Article are met; and
 - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

16-23-40. Provisions for flood hazard reduction.

- (1) General standards. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
 - (a) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - (c) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 - (d) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

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- (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
 - (g) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (2) Specific standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 16-23-20(2)(a), (ii) Section 16-23-30(2)(h), or (iii) Section 16-23-40(3)(c), the following provisions are required:
- (a) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one (1) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 16-23-30(3), is satisfied.
 - (b) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one (1) foot above the base flood elevation or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
 - (c) Manufactured Homes - Require that all manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - (d) Enclosures - New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or Architect or meet or exceed the following minimum criteria:

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- i. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (3) Standards for subdivision proposals.
 - (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this Article.
 - (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet applicable Development Permit requirements of Section 16-23-20(3), Section 16-23-30(3), and Section 16-23-40 of this Article.
 - (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is less, if not otherwise provided pursuant to the provisions of Section 16-23-20(2) or Section 16-23-30(2)(h) of this Article.
 - (d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
 - (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - (4) Alteration of a watercourse. For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:
 - (a) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
 - (b) Channelization and flow diversion projects shall evaluate the residual one hundred-year floodplain.
 - (c) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

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- (d) Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
 - (e) All activities within the regulatory floodplain shall meet all applicable Federal, State and Town floodplain requirements and regulations.
 - (f) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.
- (5) Properties removed from the floodplain by fill. A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:
- (a) Residential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one (1) foot above the Base Flood Elevation that existed prior to the placement of fill.
 - (b) Nonresidential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one (1) foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one (1) foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (6) Standards for critical facilities. A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
- (a) Classification of critical facilities. Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.
 - i. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
 - 1) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 - 2) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
 - 3) Designated emergency shelters;

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- 4) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
 - 5) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
 - 6) Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).
 - 7) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
 - 8) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the community governing body that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the one hundred-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the community governing body on an as-needed basis upon request.
- ii. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
- 1) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 - 2) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 - 3) Refineries;
 - 4) Hazardous waste storage and disposal sites; and
 - 5) Above ground gasoline or propane storage or sales centers.
 - 6) Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then

that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations.

- 7) Specific exemptions to this category include:
 - a. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
 - b. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
 - c. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.
 - d. These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Article.
- iii. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
 - 1) Elder care (nursing homes);
 - 2) Congregate care serving twelve (12) or more individuals (day care and assisted living);
 - 3) Public and private schools (pre-schools, K—12 schools), before-school and after-school care serving twelve (12) or more children.
- iv. Facilities vital to restoring normal services including government operations. These facilities consist of:
 - 1) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 - 2) Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

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- 3) These facilities may be exempted if it is demonstrated to the community governing body that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the one hundred-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the community governing body on an as-needed basis upon request.
- (b) Protection for critical facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this ordinance, protection shall include one (1) of the following:
- i. Location outside the Special Flood Hazard Area; or
 - ii. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two (2) feet above the base flood elevation.
- (c) Ingress and egress for new critical facilities. New critical facilities shall, when practicable as determined by the community governing body, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a one hundred-year flood event.



TOWN OF KIOWA
BOARD OF TRUSTEES
Rescheduled Monthly Meeting Minutes
July 21, 2026

PLEDGE OF ALLEGIANCE

Mayor Hart led the Board in the Pledge of Allegiance.

CALL TO ORDER/ROLL CALL

Mayor Hart called the monthly Board of Trustees meeting to order on July 21, 2026, at 7:16 pm.

Present: Mayor Hart, Trustee Smith, Trustee Wineland, and Trustee Schantz. Trustee Stahl was absent.

Also present:

Sasha Davidson, Town Clerk

Kim Boyd, Town Administrator

Joshua Myers, Town Attorney

APPROVAL OF AGENDA

Trustee Smith motioned to approve the agenda with revision that Item 8A under General Business be removed from the agenda and continued to the August meeting, and Trustee Schantz seconded. The motion carried 4-0 with no discussion.

PUBLIC COMMENT

None.

PUBLIC HEARING

- A. **Save the Cowboy – 2026 Long X Ranch Annual Fundraiser – Special Event Liquor License.** Kathy Weber presented an application for a special-event liquor license for the 2026 Save the Cowboys Long X Ranch Annual Fundraiser. She stated that the organization held the fundraiser at the fairgrounds the previous year and planned to use the location again following a successful event. No public comments or objections were received. Trustee Smith motioned to approve the special event liquor permit and Trustee Schantz seconded. The motion carried 4-0 with no discussion.

WORK STUDY SESSION

- A. **Automated Vehicle Identification Systems – Review of traffic study results and discussion of next steps, Present by Jerome Riordan with Dacra Tech ASE.**

Jerome Riordan of Dacra Tech presented the results of a seven-day traffic study conducted at several locations throughout Kiowa. The study was intended to evaluate possible locations for automated speed-enforcement systems and support a future Colorado Department of Transportation automated vehicle identification system permit

application. The data supported consideration of enforcement systems on Ute Ave, near Town Hall and on Highway 45. The area around the bridge construction was determined to be ineffective due to the construction of the bridge and naturally slowing traffic. It was suggested that additional study should be conducted after the bridge was completed and once school was back in session.

B. Public Infrastructure Funding Options. Attorney Josh Myers presented an overview of the funding and financing options that may be available as development is possible in Kiowa. Topics included: aligning financing strategies with the Town's growth and land-use policies, protecting Kiowa's identity while planning for development, considering developer funded infrastructure, enterprise funds, special districts, improvement fees, and intergovernmental cooperation and regional financing tools and other options. The Board had a discussion regarding the importance of requiring new development to bear an appropriate share of the costs and avoiding financial obligations that could shift costs to existing residents.

CONSENT AGENDA

A. Approval of Minutes and Expenditures for Year-to-Date 2026

Trustee Smith moved to approve the consent agenda items, and Trustee Shantz seconded the motion. The motion carried 4-0 with no discussion

GENERAL BUSINESS

A. Removed from Agenda and continued to August meeting.

B. ORDINANCE NO. 2026-07, AN ORDINANCE APPROVING THE DISCONNECTION OF CERTAIN REAL PROPERTY FROM THE MUNICIPAL BOUNDRIES OF THE TONW OF KIOWA PURSUANT TO C.R.S. §§ 31-12-501 THROUGH 31-12-503. Attorney Josh Myers presented the Ordinance concerning the disconnection of the property identified as 905 Pawnee St. from the municipal boundaries of Kiowa. The property had become a satellite parcel following the court-ordered disconnection of adjacent property. The property is served by a private well and septic system and does not receive Town water or sewer service. No objections or concerns were received from Elbert County or affected special districts during the statutory notice period. The proposed ordinance included protections requiring the property owners to pay costs associated with updating the Town's boundary map, recording the ordinance, filing certified documents with the county and other fees associated with the disconnection. The disconnection will not become effective until the ordinance is published, all required costs are paid, and a certified copy is recorded with the County Clerk and Recorder. Public comment was received from the new owner of the property, Dean McAllister, who expressed support for completing the disconnection.

Trustee Smith moved to approve ORDINANCE NO. 2026-07, AN ORDINANCE APPROVING THE DISCONNECTION OF CERTAIN REAL PROPERTY FROM THE MUNICIPAL BOUNDRIES OF THE TOWN OF KIOWA PURSUANT TO C.R.S. §§ 31-12-501 THROUGH 31-12-503, and Trustee Schantz seconded the motion. The motion carried 4-0 with no discussion.

- C. **RESOLUTION 2026-14 – A RESOLUTION SUPPORTING THE CREATION OF THE DARREL ABBEY COMMUNITY SERVICE SCHOLARSHIP PROGRAM FOR KIOWA HIGH SCHOOL SENIORS.** The proposed scholarship is intended to recognize students who demonstrate volunteer service, civic engagement, leadership, and meaningful contributions to the community. A separate bank account has been established at Farmers State Bank, and the Town may contribute up to \$1,500 annually. Private donations may also be accepted. The resolution expresses the Town’s support for creating the program but does not establish final eligibility, application, selection, funding, or administrative procedures. Those details will be developed and presented to Council for later approval.

Trustee Smith moved to approve RESOLUTION 2026-14 – A RESOLUTION SUPPORTING THE CREATION OF THE DARREL ABBEY COMMUNITY SERVICE SCHOLARSHIP PROGRAM FOR KIOWA HIGH SCHOOL SENIORS, and Trustee Schantz seconded the motion. The motion carried 4-0 with no discussion.

STAFF REPORTS

- A. **Mayor** – Mayor Hart reported that Dads of Elbert County had assisted with repairs and improvements at the Senior Center. She attended the CML conference last month and noted that she learned a lot.
- B. **Board of Trustees** – The County Fair beginning this Saturday was discussed along with all the fun activities. It was noted that the fireworks had to be cancelled on opening night due to high fire danger and upon the recommendation of both the fire department and the sheriff’s department. On Saturday the first of August, the Town of Kiowa, along with the Town of Elizabeth will be hosting the 50th Ice Cream Social on Colorado Day. The drone show will follow at the fairgrounds.
- C. **Town Attorney**
- a. **Maverix Litigation** - Attorney Josh Myer discussed the continuing litigation with Maverix. Communication has been obtained from a receivership entity stating it is taking over all operations and financial control of Maverix. Attorney Myer’s office will be reaching out to the attorneys to see if the issue can get resolved.

- b. Updated Zoning Code - The other topic that Attorney Myers discussed was regarding the updated zoning code. The Planning Commission recommended approval of the updated zoning code. The new zoning code will be presented to the Board at the next meeting as a public hearing. Council members will receive the proposed code early because of its length and complexity.

D. Town Administrator

- a. Grants Update - The Town was not selected for the federal Build grant, so the staff will meet with Kimley-Horn and CDOT to discuss alternative funding. CDOT has included the project in its ten-year plan, providing approximately \$5 million that may serve as matching funds for future grant applications. Other town grants remain on schedule.
- b. **Parks Project** - Demolition of the former tennis court at Nordman park has been completed. A 1973 construction stamp was found and is being preserved for possible future display. The cleared area will allow construction of the new pavilion. GOCO will hold a project roadshow in Kiowa on August 26th from 10am-Noon. Staff intend to have the pavilion and dome playground installed or underway before the road show. The remaining playground equipment is expected later, potentially in October. The splash pad and restroom installation are anticipated in spring 2027, with a goal of opening by Memorial Day. Existing playground equipment will be donated to another municipality or organization. A large aging pine tree near the planned restroom location will be removed because of structural and safety concerns and replaced with a fast-growing, cotton-less cotton-wood or similar tree. Kimley-Horn is conducting engineering and drainage work for the proposed parking lot at Fawn Valley Park.
- c. **Darrel Abbey Scholarship** - A bank account has been opened for the Darrell Abbey Scholarship Fund, and the first private donation has been received. The scholarship will be formally introduced during the annual Ice Cream Social.
- d. **Town Events** - Council members interested in helping at the Ice Cream Social were asked to contact staff so event shirts could be ordered. The Ice Cream Social is scheduled from 6:00 to approximately 8:30 p.m., followed by a drone show at approximately 9:00 p.m.
- e. **Audit** - The Town and Water Authority audits received extensions and are expected to be completed by September 2026.

EXECUTIVE SESSION – The board moved to enter executive session pursuant to C.R.S. § 24-6-402(4)(a) and (b), and Town Charter § 3.12(1)(b) and (c), for the purpose of the Town’s consideration of the Town’s purchase, acquisition, lease, transfer, or sale of real, personal, or other property interests where public disclosure could provide another party with an unfair competitive or bargaining advantage; and receipt of legal advice from the Town Attorney regarding specific legal questions related to those matters. Mayor Hart moved to exit the regular session and enter the Executive session, and Trustee Smith seconded the motion. The motion carried 4-0 with no discussion. The Board exited the regular session at 9:46pm and entered the Executive session at 9:50pm. The Town exited the Executive session at 10:14pm and re-entered the regular session at 10:19pm.

Mayor Hart made the motion to the Town Administrator and Town Attorney to pursue the Community Development Block Grant from DOLA and to take such actions that are needed to obtain grant funding and enter into contract to obtain real property for the purposes discussed during the executive session. Trustee Smith seconded the motion. The motion carried 4-0 with no discussion.

DISCUSSION/COMMUNICATION

- A. Municipal Court and the Town Municipal Code** – The Town of Kiowa has retained a new court judge. It was noted that court continuances will only be allowed by the judge’s discretion after a formal request.

ADJOURN

Trustee Smith moved to adjourn at 10:19pm. Trustee Shantz seconded. The motion carried 4-0 with no discussion.

Approved:

Tammy Hart, Mayor

Sasha Davidson, Town Clerk

Town of Kiowa

Statement of Activity

January 1-August 5, 2026

	Total
Revenue	
4000 Tax Revenue	
4010 Roads & Streets	\$282.52
4011 Road & Bridge Distribution	50,467.80
4012 Highway Users Tax Fund (HUTF)	16,213.18
Total for 4010 Roads & Streets	\$66,963.50
4015 Cigarette Distribution	690.74
4020 Current Interest	47.39
4050 Personal Property Exemption	567.00
4051 Property Tax	195,926.22
4060 Sales Tax - DOR	272,403.89
4061 Senior/Vet Exemption	2,261.49
4063 Specific Ownership Taxes (SOT)	15,792.60
4065 Use tax	4,129.15
4067 Conservation Trust Fund (CTF)	4,306.77
Total for 4000 Tax Revenue	\$563,088.75
4200 Contributed Income	
4210 Government Grants & Contracts	
4215 DOLA - EIAF 9734 Grant	99,538.00
4216 CDOT - TAP Grant	236,162.06
4217 CDBGPF-25-527 Kiowa Park Upgrades	26,000.00
4218 LPC-IN-906 Zoning Code Updates	6,757.50
4225 Main Street - AARP Community Challenge	15,000.00
4227 Main Street - Mini Grant/Scholarship	2,819.92
Total for 4210 Government Grants & Contracts	\$386,277.48
4220 Sponsorships & Donations	\$6.61
4221 Annual Town Event Sponsorships	12,025.00
4224 Main Street Fundraising & Event Sponsorships	1,457.61
Total for 4220 Sponsorships & Donations	\$13,489.22
Total for 4200 Contributed Income	\$399,766.70
4220.1 Scholarship Fund Donations	500.00
4250 Sales	
4251 Business License Fees	2,193.25
4252 Building Permit and Plan Review Fees	6,935.65
4253 Business License	485.00
4254 Dog License Fee	55.00
4257 Special Event Liquor License Fee	850.00
4261 Court Fines	250.00
Total for 4250 Sales	\$10,768.90

Town of Kiowa

Statement of Activity

January 1-August 5, 2026

	Total
4280 Franchise Tax	
4281 Black Hills	7,345.93
4282 Comcast	100.00
4283 CORE	11,960.06
Total for 4280 Franchise Tax	\$19,405.99
4400 KWWA Operating Contract	49,367.43
Total for Revenue	\$1,042,897.77
Gross Profit	\$1,042,897.77
Expenditures	
6000 Payroll expenses	
6010 Salary & Wages	
6030 Salary & Wages- Public Works-Streets	\$28,957.04
6030.1 Overtime	19.31
Total for 6030 Salary & Wages- Public Works-Streets	\$28,976.35
6040 Salary & Wages - Admin Staff	55,103.82
Total for 6010 Salary & Wages	\$84,080.17
6020 Board Monthly Stipend	4,196.00
6100 Payroll Taxes (Employer)	10,639.73
6210 Deferred Health Care	7,065.48
6212 ToK Benefit Expense	15,574.97
6250 Reimbursements - Employee	903.24
6270 Payroll Contractual Fees	2,242.72
Total for 6000 Payroll expenses	\$124,702.31
6281 Team Building	252.37
6290 Professional Training & Conference	\$205.00
6240 Boards & Commissions	158.10
6634 Professional Training & Conference - Main Street	2,830.96
Total for 6290 Professional Training & Conference	\$3,194.06
6300 Advertising & Public Notices	\$1,406.25
6310 Display Ads	85.00
6320 Public Notices	1,291.04
6330 Town Sponsored Events	4,630.58
Total for 6300 Advertising & Public Notices	\$7,412.87
6500 Insurance	
6510 CIRSA Insurance (PC & Liability)	6,443.30
6512 CIRSA (Workers Compensation)	5,817.42
Total for 6500 Insurance	\$12,260.72
6601 Donations & Sponsorships to Others	8,809.72
6620 Meals & Entertainment	839.37

Town of Kiowa

Statement of Activity

January 1-August 5, 2026

	Total
6630 Dues & Subscriptions	\$318.00
6631 Newspaper & Publication Subscription	744.00
6632 Website/Apps	\$3,176.06
6632.1 Accounting Software - Intuit QuickBooks	838.88
6632.2 Adobe Subscription	527.09
6632.4 Indeed	365.60
6632.7 Town website	77.86
6632.9 Zoom	210.80
Total for 6632 Website/Apps	\$5,196.29
6633 Professional Memberships	2,744.83
Total for 6630 Dues & Subscriptions	\$9,003.12
6710 Repairs & Maintenance	
6711 Trash and Janitorial	1,642.56
6712 Repairs & Maintenance - Streets	7,310.28
6713 Repair & Maintenance - Town Hall	4,462.69
6714 Repairs & Maintenance - Parks & Rec	34,600.38
Total for 6710 Repairs & Maintenance	\$48,015.91
6714.1 Parks Improvement Project	16,800.00
6740 Small tools & equipment	138.01
6760 Rent & Lease Equipment	\$655.61
6761 Parks & Rec - Parker Port-a Potty	5,420.00
6762 Equipment Purchase/Lease	5,048.66
Total for 6760 Rent & Lease Equipment	\$11,124.27
6770 Facility rental	238.03
6771 Town Event Entertainment	28,930.00
6772 Main Street Sponsored Events	16,550.00
6800 General Office Expenses	\$9,402.51
6805 Shipping & Postage	3.56
6820 Office supplies	\$1,324.47
6822 Supplies for Events/Specialty	9,694.67
6823 Specific Use Supplies & Materials for Parks	24.50
6824 Specific Use Supplies for R & B	1,156.11
6827 Supplies & materials	86.48
Total for 6820 Office supplies	\$12,286.23
6821 Specific Use Supplies for Office	772.33
6830 Copier Lease	1,552.03
6850 Computer Supplies/Software & apps	2,777.21
6860 Printing & Photocopying	2,243.20
Total for 6800 General Office Expenses	\$29,037.07

Town of Kiowa

Statement of Activity

January 1-August 5, 2026

	Total
6825 Main Street - Specific Use Supplies	475.93
6900 Utilities	
6905 Utilities- Power - CORE	3,249.32
6906 Utilities- Power- Street Lights - CORE	7,622.69
6910 Utilities- Heat - Black Hills	1,540.47
6920 Utilities - Water and Sewer - KWWA	2,239.35
6930 Utilities - Trash Removal	180.00
6940 Utilities Telephone/Internet	6,566.00
6970 Security/Alarm Monitoring	4,016.36
Total for 6900 Utilities	\$25,414.19
7000 Professional Services	
7016 Legal Services	
7012 Legal Services - General Counsel	107,303.25
7014 Professional Services - Municipal Court	3,849.12
Total for 7016 Legal Services	\$111,152.37
7020 IT Services	
7021 Professional - IT - Phoenix Technologies	11,886.47
7022 Professional - Web Design	440.00
Total for 7020 IT Services	\$12,326.47
7040 Counselling Services	
7041 Professional - Consulting - SafeBuilt	5,593.78
7042 Professional - Consulting - Kimley-Horn	273,665.00
7044 Professional - Consulting - Planning	24,286.25
Total for 7040 Counselling Services	\$303,545.03
7070 IGA with ECSO	36,664.00
7090 Professional Services- Other	
7091 Professional - Code Enforcement	7,700.00
7092 Professional - Fischer Project Mgmt	15,000.00
7094 Professional Services - Security	39.00
Total for 7090 Professional Services- Other	\$22,739.00
Total for 7000 Professional Services	\$486,426.87
7100 Bank Charges & Fees	46.10
7200 Vehicle Expenses	
7200.1 Town Staff Vehicle	13,645.00
7210 Vehicle Gas & Fuel	1,866.94
7230 Vehicle - Repairs Maintenance	1,968.68
Total for 7200 Vehicle Expenses	\$17,480.62
7400 Road and Streets Repair	4,125.94
7401 Roads & Streets Other	1,170.90

Town of Kiowa

Statement of Activity

January 1-August 5, 2026

	Total
7500 Other Miscellaneous Expense	\$7,148.64
7502 Park Expenses	70.95
7503 Elbert County Clerk & Recorder	572.37
7504 Elbert CO Treasurer Fee	3,981.72
Total for 7500 Other Miscellaneous Expense	\$11,773.68
Total for Expenditures	\$864,222.06
Net Operating Revenue	\$178,675.71
Other Revenue	
8000 Interest Income	18,040.07
Total for Other Revenue	\$18,040.07
Net Other Revenue	\$18,040.07
Net Revenue	\$196,715.78

Town of Kiowa

Statement of Financial Position

As of Aug 5, 2026

	Total
Assets	
Current Assets	
Bank Accounts	
1010 TOK Primary Checking (6476)	59,016.80
1020 TOK Money Market Account (6484)	1,006,779.51
1050 Petty Cash	153.76
1060 Darrel Abbey Scholarship Fund (5779)	2,000.00
Total for Bank Accounts	\$1,067,950.07
Accounts Receivable	
1100 Accounts Receivable (A/R)	65,276.07
1101 Property Tax Receivable	186,050.00
Total for Accounts Receivable	\$251,326.07
Other Current Assets	
1493 Investment in Fixed Assets	0.00
Total for Other Current Assets	\$0.00
Total for Current Assets	\$1,319,276.14
Fixed Assets	
1492 Buildings	0.00
1540 Furniture & fixtures	0.00
1600 Accumulated depreciation	0.00
6750 Equipment & Furniture	0.00
Total for Fixed Assets	\$0.00
Total for Assets	\$1,319,276.14
Liabilities and Equity	
Liabilities	
Current Liabilities	
Accounts Payable	
2000 Accounts Payable (A/P)	127,997.11
Total for Accounts Payable	\$127,997.11
Credit Cards	
2040 VISA (5418)	-9,591.20
Total for Credit Cards	-\$9,591.20
Other Current Liabilities	
2104 Deferred Revenue	\$0.16
2114 Committed Fund Balance Conservation Trust	13,085.00
2124 Committed Fund Balance Road and Bridge	247,177.00

Town of Kiowa

Statement of Financial Position

As of Aug 5, 2026

	Total
Total for 2104 Deferred Revenue	\$260,262.16
2105 Deferred Property Tax	186,050.00
2109 Adjustment for TABOR	-15,054.00
2210 Payroll tax to pay	\$0.00
2211 FICA- Payroll Taxes	-8,276.14
2212 FIT	7,332.81
2213 Colorado SIT	-1,045.00
2214 Retirement benefits to pay 457	-510.00
2215 FUTA	-130.94
2216 CO FLI - Family leave	-68.44
2217 Colorado SUI	-49.98
2501 ICMA 401(a)	-3,395.49
Total for 2210 Payroll tax to pay	-\$6,143.18
2510 Impact Fees Collected	6,271.43
Fund Balance--Res'd for Emergency	14,554.00
Total for Other Current Liabilities	\$445,940.41
Total for Current Liabilities	\$564,346.32
Total for Liabilities	\$564,346.32
Equity	
3150 Opening balance equity	-0.06
3300 Retained Earnings	558,214.10
Net Revenue	196,715.78
Total for Equity	\$754,929.82
Total for Liabilities and Equity	\$1,319,276.14

RESOLUTION 2026-15
TOWN OF KIOWA

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH
THE ELBERT COUNTY CLERK AND RECORDER REGARDING THE CONDUCT
AND ADMINISTRATION OF THE NOVEMBER 3, 2026, GENERAL ELECTION**

WHEREAS, C.R.S. § 29-1-203 authorizes governments to contract with each other to provide any function or service lawfully authorized to each of the contracting units; and

WHEREAS, the Town of Kiowa ("Town") and the Elbert County Clerk and Recorder are authorized to provide administration of their respective duties concerning the conduct of the November 3, 2026, general election ("Election"); and

WHEREAS, pursuant to C.R.S. § 1-7-116(1), if more than one political subdivision holds an election on the same day in November and the eligible electors for each election are the same or the boundaries overlap, the county clerk and recorder shall conduct the elections on behalf of all political subdivisions; and

WHEREAS, C.R.S. § 1-7-116(2) states that the political subdivisions for which the county clerk and recorder will conduct the coordinated election shall enter into an agreement with the county clerk and recorder, which agreement shall be signed no later than seventy (70) days prior to the election, or on or before August 25, 2026; and

WHEREAS, the Town wishes to enter into such an agreement with the Elbert County Clerk and Recorder regarding the conduct of the Election; and

WHEREAS, the Town Board of Trustees has determined that the proposed Intergovernmental Agreement with the Elbert County Clerk and Recorder for election administration services, attached hereto as **Exhibit A** (the "Intergovernmental Agreement"), is in the best interests of the Town and its residents and desires to approve such Intergovernmental Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF KIOWA IN ELBERT COUNTY, STATE OF COLORADO:

Section 1. The above recitals are hereby adopted as the findings and determinations of the Board of Trustees and are incorporated herein for all purposes.

Section 2. The Board of Trustees hereby: (a) approves the Intergovernmental Agreement between the Town and the Elbert County Clerk and Recorder regarding the conduct of the November 3, 2026 coordinated election, substantially in the form attached hereto as **Exhibit A**; and (b) authorizes the Mayor to execute the Intergovernmental Agreement on behalf of the Town once in final form.

Section 3. The Board of Trustees further authorizes the Town Administrator and Town Clerk to: (a) negotiate non-material changes to the Intergovernmental Agreement in consultation with the Town Attorney prior to final execution of the Intergovernmental Agreement by the Town;

and (b) to take, or instruct their respective designees to take, whatever lawful actions are necessary to coordinate the Election.

Section 4. This Resolution shall immediately take effect upon its approval.

ADOPTED AND APPROVED this ___ day of August 2026.

TOWN OF KIOWA, COLORADO

By: _____
Tammy Hart, Mayor

ATTEST:

By: _____
Sasha Davidson, Town Clerk

Exhibit A

Intergovernmental Agreement with the Elbert County Clerk and Recorder

INTERGOVERNMENTAL AGREEMENT
BETWEEN
ELBERT COUNTY CLERK AND RECORDER AND
TOWN OF KIOWA

Regarding the Conduct and Administration of the

NOVEMBER 3, 2026
GENERAL ELECTION

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into by and between **THE ELBERT COUNTY CLERK AND RECORDER** ("CEO" or "County Clerk") and the Town of Kiowa, Colorado ("Jurisdiction"), collectively referred to as the "Parties" for the administration of their respective duties concerning the conduct of the November 3, 2026, General Election ("Election").

DEFINITIONS:

- ❖ **"Coordinated Election Official", ("CEO")** - The Elbert County Clerk and Recorder as referenced in C.R.S. § 1- 7-116(1)(a) will conduct the election for the Town of Kiowa ("DEO").
- ❖ **"Colorado Election Code" or "Code"** - any part of the Uniform Election Code of 1992 Title 1, C.R.S.), the Colorado Local Government Election Code (Article 13.5 of Title 1, C.R.S.) or any other Title of C.R.S. governing participating jurisdictions's election matters, as well as the Colorado Constitution, and the State of Colorado Secretary of State (SOS) Rules.
- ❖ **"Coordinated Election"** - an election where more than one jurisdiction with overlapping boundaries or the same electors hold an election on the same day and the eligible electors are all registered electors, and the County Clerk and Recorder is the Coordinated Election Official for the jurisdictions.
- ❖ **"Designated Election Official" ("DEO")** - person identified by the Jurisdiction to act as the primary liaison between the Jurisdiction and the Contact Person (defined below), and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction.
- ❖ **"IGA" or "Agreement"** - Intergovernmental Agreement between the Elbert County Clerk and Recorder ("CEO") and the Jurisdiction for election coordination.
- ❖ **"Jurisdiction"** - the Jurisdiction or local government participating in the General Election under the terms of this Agreement.
- ❖ **"Mail Ballot Packet"** - the packet of information provided by the County Clerk to eligible electors in the mail ballot election. The packet includes the ballot, instructions for completing the ballot and a return envelope. C.R.S. § 1-7.5- 103(5).

- ❖ **"SOS"** - the State of Colorado Secretary of State.
- ❖ **"SOS Election Calendar"** - the most recent election calendar as published on the SOS website located at www.sos.state.co.us.

ARTICLE ONE PURPOSE AND GENERAL MATTERS

GOAL: The purpose of this Agreement is to define the tasks to be completed by the County Clerk and Recorder and the Jurisdiction to conduct the election.

TERM: This Agreement begins as of the date of the last party's execution of this Agreement and continues through the official certification of the November 3, 2026, General Election.

ARTICLE TWO DUTIES OF THE COUNTY

CONTACT PERSON: The County Clerk designates Rhonda Braun, or her designee, as the primary contact for the Jurisdiction. The contact person will act under the authority of the County Clerk and will have the primary responsibility for the coordination of the election with the Jurisdiction and completion of procedures assigned to the County Clerk. Nothing in this agreement will be interpreted to relieve the County Clerk or the Jurisdiction from their official responsibilities for the conduct of the election.

Primary Contact: Rhonda Braun
303-621-3127
elections@elbertcounty-co.gov

THE DUTIES OF THE COUNTY CLERK AND RECORDER ("CEO") ARE TO:

- Conduct the election for the Jurisdiction in accordance with the Code and Rules
- Facilitate voter registration
- Publish notice of election as required by C.R.S. § 1-5-205
- Prepare ballots as certified by the DEO
- Provide ballot printing layouts and text for proofreading and for signature approval by the DEO
- Certify the ballot content to the printer
- Assign numbering of ballot issue and/or ballot question
- Provide voter lists upon request of the DEO to check signatures on candidate petitions and Property Owner verification - \$25 per list plus \$5 USB
- File the proposed election plan with the Secretary of State as required by

C.R.S. §1-7.5-105 (1)

- Appoint, compensate, instruct and oversee election judges, the Board of Canvassers, and any additional election staff
- Provide all necessary equipment, forms and personnel to conduct the election, including the County's electronic vote counting equipment
- Provide personnel to participate in the ballot counting procedures and all other necessary services for any recount
- Conduct three tests on all electronic voting equipment in accordance with C.R.S. § 1-7-509(1)(b) and Secretary of State, including a hardware test, public logic and accuracy test prior to the voting period , and a post-election test
- Publish notice of public voting equipment testing before voting begins
- Prepare and mail all Mail Ballot Packets as required by C.R.S. § 1-7.5-107 and § 1-8.3-110
- Conduct and oversee the process of counting the ballots and reporting the results by precinct
- Store all election records for a minimum of twenty-five (25) months as required by the Code
- Determine the order of the ballot and the order of the Ballot Issue Notice in the order of final ballot certification on a first received basis
- Establish precincts, voter service and polling centers, and ballot drop-off locations as required by law

ARTICLE THREE RESPONSIBILITIES OF THE JURISDICTION

The Jurisdiction understands that there may be additional obligations and responsibilities, legal, contractual, or otherwise, placed upon the Jurisdiction outside the terms of this IGA. The Jurisdiction further understands that it is the responsibility of the Jurisdiction to be aware of all obligations and responsibilities of the Jurisdiction.

The Jurisdiction understands and agrees that any ballot content submitted to the County Clerk after the certification date may result in their candidates, issues or questions not being on the ballot. In such event, the Jurisdiction will be required to provide for its own election at its sole expense and the remaining terms and conditions of this Agreement will automatically terminate. The Jurisdiction is solely responsible for the content of any ballot issue and/or ballot question, including the title and summary of any ballot issue and/or ballot question. The County Clerk may provide proofreading assistance (i.e. technical, grammatical, or syntactic proofing) but under no circumstance

shall the County Clerk be responsible for the content.

DESIGNATED ELECTION OFFICIAL: The Jurisdiction designates the following as the DEO for the Jurisdiction to act as the primary liaison between the County Clerk and the Jurisdiction with primary responsibility for the election procedures to be handled by the Jurisdiction.

NAME: Sasha Davidson, Town Clerk
303-621-2366
sdavidson@townofkiowa.com

THE DUTIES OF THE DESIGNATED ELECTION OFFICIAL (DEO) ARE TO:

- Provide the County Clerk with emergency contact numbers to be reached before and after normal office hours and on Election Day from 7:00 a.m. until the counting of the ballots is completed.
- Provide the County Clerk with a copy of the ordinance or resolution stating that the Jurisdiction will participate in the General Election in accordance with the terms and conditions of this Agreement. **The ordinance or resolution will also authorize the DEO of the Jurisdiction or other designated person to execute this Agreement.**
- Perform all responsibilities required to certify any candidate, including write-in candidates, and/or initiative petition(s) to the ballot. Petitions for nominations must be made available through the office of the DEO for the Jurisdiction.
- Inform all candidates running for office that the candidates must comply with Campaign Finance requirements (Article XXVIII of the Colorado Constitution, and Title 1, Article 45, C.R.S). A good resource for candidates is the Colorado Campaign and Political Finance Manual, which can be found at: <http://tracer.sos.colorado.gov/PublicSite/Homepage.aspx>.
- Verify signatures on all petitions.
- Verify the SCORE (Statewide Colorado Registration and Election) Street Address Library and confirm that the street listing is correct and accurate for the Jurisdiction. Only residential addresses within the Jurisdiction should be listed, not business or commercial addresses. Information will be used to identify eligible electors within the Jurisdiction.
- Certify the list of candidates, ballot issues and/or ballot questions and the titles and summaries of each ballot issue or question in the format as described in the attached "Format Information Page" to the County Clerk exactly as the list is to be printed on the ballot **no later than 5:00 P.M. on September 4, 2026. Certification is required electronically, which may include CD/USB or**

email.

➤ Confirm that candidates:

- Provide the phonetic pronunciation of each candidate's name to assist with the preparation of the audio ballot as required by SOS Rule 4.6.2.
- Leave an audio recording of the candidate's name in the voice mail box **or** call the CEO at (720)-639-5855.
- Provide the preferred abbreviation of any candidate's name that exceeds 20 characters for reports and web page display only.
- File a Candidate Affidavit at <https://tracer.sos.colorado.gov> before September 4, 2026. This step is required for the candidate's name to be placed on the ballot.
-

➤ Recognize that the numbering of a ballot issue and/or ballot question is the sole responsibility of the CEO.

➤ Proofread the layout and the text of the Jurisdiction's portion of the official ballots before authorizing in writing the printing of the ballots. Authorization must be made **WITHIN THREE HOURS** of the County Clerk's email or fax transmission to the DEO.

The expected date and time for this proofing will be before 5:00 p.m. on **Friday, September 11, 2026**. Should the DEO fail to contact the County Clerk within three hours of the County Clerk's email or fax transmission, the County Clerk will not be held responsible for any errors or omissions should they proceed with the printing of the ballots.

➤ Accommodate Property owners within the jurisdiction in the following ways:

- Provide property owner list to County Clerk for mailing of mail ballot packets. Participating jurisdictions that are required to permit taxpaying electors as defined by C.R.S. § 32-1-103(5) to vote in their elections, must provide a list of those eligible electors to the County Clerk. The list must include eligible electors which **are** included on the Assessor's property owner list and **are not** included on the registered voter list provided by the County Clerk.
- Verify that each of the eligible electors on their prepared list is registered to vote in the state of Colorado. This process may be accomplished by requesting access to the Voter Lookup website available on the Colorado Secretary of State's web site: <https://www.sos.state.co.us>.
- Submit the list of eligible electors to the County Clerk no later than September 18, 2026, and include the voter's full name, mailing address, and Colorado Voter ID number.

- Prepare, and be solely responsible for, the language for the Notice for each ballot issue (TABOR notice) relating to Section 20, Article X of the Colorado Constitution. (See Ballot Issue Notice Example Page)
- Accept and summarize Ballot Issue Pro/Con comments delivered to the Jurisdiction's DEO **by September 18, 2026.**
- Submit the Ballot Issue Notice in proper format to the CEO **by 5:00 p.m. September 21, 2026.**
- The County Clerk will determine the "least cost" method for mailing the Ballot Issue Notice package.
- It is the Jurisdiction's responsibility to coordinate with all other counties if district boundaries extend beyond Elbert County.

ARTICLE FOUR COSTS

THE JURISDICTION AGREES THAT:

- Elbert County shall be the sole determiner as to whether legal counsel outside of the Elbert County Attorney's office is required or warranted to bring or defend legal or administrative action as referenced in this Agreement.
- Legal costs shall include, but are not limited to any costs incurred by Elbert County to enforce a provision of this Agreement or to defend any legal or administrative action brought by a candidate or Jurisdiction as it relates to this Agreement or the November 3, 2026, General Election.
- The Jurisdiction agrees to pay its proportional share of the actual costs of the election within 30 days of date of billing. The proportional share will be based upon the number of active voters eligible to vote within each Jurisdiction involved in the election, the number of jurisdictions participating, and the number of ballot issues and/or items to be included on the ballot for each jurisdiction.
- The charge for voter lists requested by the Jurisdiction is \$25.00, plus \$5.00 per USB drive. This must be paid at the time the list is requested.
- The Jurisdiction will reimburse costs of a recount (C.R.S. § 1-10.5-101 and § 1-11-215) except for costs collected from an "interested party" (C.R.S. § 1-10.5-106) which will be collected by the entity conducting the recount.
- The Jurisdiction will submit a deposit of \$500 to the County Clerk at the time the ballot certification is submitted to the County Clerk but no later than 5:00 p.m. Friday, September 4, 2026. It is understood and agreed that the actual cost may be higher depending on questions presented to the Jurisdiction's electorate and the number of jurisdictions that participate in the General Election.

ARTICLE FIVE
CANCELLATION OF THE ELECTION

- In the event that the Jurisdiction resolves not to hold the election, then the Jurisdiction shall comply with the provisions of C.R.S. § 1-5-208.
- Notice of such resolution shall be immediately provided to the County Clerk.
- If Jurisdiction cancels after ballot certification date, September 4, 2026, the Jurisdiction will be responsible for their proportional share of the election.
- Provide notice by publication (as defined in the Code) of the cancellation of the election to be posted in the office of the County Clerk, in the office of the DEO, at the primary location of the Jurisdiction, and, if the Jurisdiction is a special district, in the office of the Division of Local Government.

ARTICLE SIX
LIABILITY

Nothing in this provision will waive or otherwise limit the defense available to the Jurisdiction and the County under the Colorado Government Immunity Act. This Agreement shall not be construed to create any rights or benefits for any person who is not a party to this agreement.

ARTICLE SEVEN
MISCELLANEOUS

REQUIRED NOTICES: Any and all notices required to be given by the Parties by this Agreement are considered to have been received and to be effective:

- 1) three days after the documents have been mailed by certified mail, return receipt requested
- 2) immediately upon hand delivery
- 3) immediately upon receipt of confirmation that an email was received

To County: Elbert County Clerk and Recorder
 PO Box 990
 Kiowa, CO 80117
 elections@elbertcounty-co.gov

To Jurisdiction: Town of Kiowa
 Attn: Sasha Davidson
 PO Box 237
 Kiowa, CO, 80117
 Email: sdavidson@townofkiowa.com

AMENDMENT: This Agreement may be amended only in writing and in agreement by both parties.

INTEGRATION: The Parties acknowledge that this written Agreement, along with any attachments, constitutes the sole agreement between them, and that no Party is relying upon any oral representation made by another Party or employee, agent or officer of that Party.

CONFLICT OF AGREEMENT WITH LAW, IMPAIRMENT: In the event that any provision of this Agreement conflicts with the Code, other statute, rule or valid prior resolution duly adopted by the Elbert County Board of County Commissioners, this Agreement will be modified to conform to such law, resolution or ordinance. No subsequent resolution or ordinance of the Board of County Commissioners or the governing body of the Jurisdiction shall impair the rights of the County Clerk or the Jurisdiction without the consent of the other party to this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the latest date noted below.

COORDINATED ELECTION OFFICIAL:

By _____
Rhonda Braun, Elbert County Clerk and Recorder

Date _____

Town of Kiowa

By _____ By _____

Date _____ Date _____

**RESOLUTION NO. 2026-16
TOWN OF KIOWA, COLORADO
BOARD OF TRUSTEES**

**A RESOLUTION APPROVING THE PROFESSIONAL SERVICES AGREEMENT
[TECHNICAL SUPPORT FOR KIOWA HOUSING AND COMMUNITY DEVELOPMENT
STUDY] BETWEEN THE TOWN AND KIMLEY-HORN AND ASSOCIATES, INC.**

WHEREAS, the Colorado Department of Local Affairs (DOLA) awarded the Town of Kiowa (“Town”) a grant under the Local Planning Capacity Grant Program for Project Number LPC-26-092 named the Kiowa Housing & Infrastructure Readiness Initiative, pursuant to that certain State of Colorado Intergovernmental Grant Agreement with an effective date of April 22, 2026 (“Grant”); and

WHEREAS, the Grant authorizes the Town to hire qualified consultants to accomplish the purpose of the Grant, including, without limitation, completing an analysis of infrastructure capacity, assessing constraints such as water supply, wastewater, stormwater, transportation, power, communications, and public safety, and preparing technical reports (“Technical Consultant”); and

WHEREAS, the Grant awards the Town \$280,000.00 (“Grant Funds”) for Consulting Services (as defined in the Grant), which may be used by the Town to fund the Technical Consultant’s fees, as well as the fees and costs of other consultants, to perform services required to accomplish the purpose of the Grant; and

WHEREAS, the Town’s Board of Trustees (“Board”) amended the Town’s 2026 Budget to account for the Grant Funds and appropriated additional funds to the Community Development Department fund for additional expenditures, including the expenditure for hiring Technical Consultants; and

WHEREAS, the Town may only award a contract for consultant services, including a Technical Consultant’s services, to a qualified firm or individual following a formal Request for Proposals or competitive selection process; and

WHEREAS, the Town issued a Request for Proposals, under Town Number RFP_F-TOK-0000000007, seeking proposals from qualified Housing and Community Development Consultants to support the Town’s planning initiative focused on advancing attainable and affordable housing under the Grant (“RFP”); and

WHEREAS, Kimley-Horn and Associates, Inc. a North Carolina Corporation (“KH”), submitted a timely proposal in response to the RFP; and

WHEREAS, Town staff recommends the Board award KH a contract for Technical Consultant services based on the selection criteria set forth in the RFP; and

WHEREAS, the Board desires to engage KH to serve as a Technical Consultant pursuant to a professional services agreement setting forth the scope of services, compensation, and other terms and conditions that comply with the requirements in the Grant; and

WHEREAS, the Board desires to authorize the Town Administrator, after consultation with the Town Attorney, to execute a contract between the Town and KH for Technical Consultant services substantially in the form attached hereto as **Exhibit A**.

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

Section 1. The above recitals are hereby adopted as the findings and determinations of the Board and are incorporated herein for all purposes.

Section 2. The Board hereby: (1) approves the Professional Services Agreement [Technical Support for Kiowa Housing and Community Development Study] between the Town and KH substantially in the form attached hereto as **Exhibit A** ("Agreement"); (2) authorizes the Town Attorney to make necessary edits to the Agreement that do not materially impact the obligations of the Town under the Agreement; and (3) authorizes the Town Administrator and Town Clerk, after consulting with the Town Attorney and once the Agreement is approved as to form by the Town Attorney, to execute and attest the Agreement on behalf of the Town.

Section 3. The Town Administrator is directed to provide DOLA with a copy of the Agreement once it has been fully executed by the Town and KH, per the requirements in the Grant.

Section 4. This Resolution is effective immediately upon adoption.

APPROVED AND ADOPTED BY THE BOARD OF TRUSTEES ON AUGUST _____, 2026.

TOWN OF KIOWA, COLORADO

Tammy Hart, Mayor

Attest:

Sasha Davidson, Town Clerk

EXHIBIT A
Professional Services Agreement [Technical Support for Kiowa Housing and Community Development Study]

{See attached.}

PROFESSIONAL SERVICES AGREEMENT
[TECHNICAL SUPPORT FOR KIOWA HOUSING AND COMMUNITY DEVELOPMENT STUDY]

This Professional Services Agreement for Technical Support for Kiowa Housing and Community Development Study (the “**Agreement**”) is entered into on _____, 2026, (the “**Effective Date**”) by and between the Town of Kiowa, a Colorado home rule municipality (the “**Town**”), and Kimley-Horn and Associates, Inc., a North Carolina Corporation with offices at 11800 Ridge Parkway, Suite 200, Broomfield, CO 80021 (the “**Contractor**”). The Town and the Contractor may be referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

- A. The Town has received or expects to receive grant funding from the Colorado Department of Local Affairs (DOLA) under the State of Colorado Intergovernmental Grant Agreement (“**Grant Agreement**”) for Project Number LPC-26-092 for the Kiowa Housing & Infrastructure Readiness Initiative project (the “**Project**”).
- B. The Town has contracted with Davidson Consulting Solutions (**DCS**) to provide the Town with community development specialist services for the Project, which includes general oversight and management of the Project.
- C. The Project requires the performance of technical consulting community development services to support completion of the Project, as set forth in that Request for Proposals issued by the Town under RFP_F-TOK-0000000007 (“Project RFP”).
- D. Contractor submitted a response to the Project RFP on May 22, 2026, and after further negotiations with the Town, Contractor submitted a revised response to the Project RFP for limited technical consulting services.
- E. The Town desires to retain the Contractor to perform the technical consulting services as described in this Agreement, and the Contractor desires to perform those services, subject to the terms and conditions of this Agreement and all applicable grant requirements under the Grant Agreement.
- F. The Parties intend that this Agreement be interpreted consistently with the Town’s obligations as a Colorado public entity, the Grant Agreement, applicable law, and the Town’s fiscal and appropriation limitations.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Engagement and Scope of Services

- 1.1. Engagement. The Town engages the Contractor to provide the services described in **Exhibit A** attached hereto (the “**Services**”) subject to this Agreement and the Grant Agreement, and the

Contractor accepts that engagement. Contractor acknowledges that the Town has provided the Contractor a copy of the Grant Agreement, and said applicable provisions thereof are incorporated herein by this reference.

- 1.2. Project and Grant Alignment. The Services must be performed solely in support of the Project and in a manner consistent with the purposes, budget categories, deadlines, deliverables, and conditions of the grant funding identified in this Agreement and in the Grant Agreement. Contractor shall coordinate its deliverables and schedule with DCS and the Town Representative. DCS may provide technical coordination and scheduling of deliverables as authorized by the Town Representative.
- 1.3. No Unauthorized Services. The Contractor is not entitled to compensation for any work outside the Services unless the Town authorizes that work in a written amendment or written change order signed by the Town Representative.

2. Term

- 2.1. Term. This Agreement begins on the Effective Date and continues until May 31, 2028 (“**Grant Expiration Date**”), unless earlier terminated under this Agreement. The term of this Agreement is expressly subject to the limitations set forth in this Agreement, including, without limitation, Section 7 below.
- 2.2. Grant Period. The Contractor acknowledges that the Services are funded in whole or substantially in part by grant funds received by the Town pursuant to the Grant Agreement, and the Services must be completed before the Grant Expiration Date unless the Town authorizes otherwise in writing.
- 2.3. No Work Before Authorization. The Contractor may not begin work on the Services before the Effective Date, before receiving notice to proceed from the Town Representative, or before satisfying any preconditions stated in this Agreement. Work performed for completion of the Services before written authorization is given by the Town is at the Contractor’s sole risk and expense.

3. Standard of Performance

- 3.1. Professional Standard. The Contractor must perform the Services with the degree of skill, care, diligence, judgment, and professionalism ordinarily exercised by qualified professionals performing similar services under similar circumstances in Colorado.
- 3.2. Compliance with Requirements. The Contractor must perform the Services in compliance with this Agreement, all applicable laws, rules, regulations, ordinances, grant requirements, professional standards, and written instructions issued by the Town that are consistent with this Agreement.

- 3.3. Licenses and Qualifications. The Contractor must maintain, at its sole expense, all licenses, certifications, registrations, permits, authorizations, and qualifications required to perform the Services.
- 3.4. Correction of Deficient Work. The Contractor must promptly correct deficient, nonconforming, or incomplete Services at no additional cost to the Town.

4. Personnel

- 4.1. Qualified Personnel. All personnel performing Services must be qualified, trained, supervised, and, where applicable, licensed or certified to perform the assigned work.
- 4.2. Removal of Personnel. The Town may require the Contractor to remove from the Project any personnel whose conduct, performance, qualifications, conflict of interest, or access to municipal facilities or information is reasonably objectionable to the Town.

5. Compensation and Payment

- 5.1. Compensation. Subject to this Agreement, the Town will compensate the Contractor as stated in **Exhibit B**. Total compensation under this Agreement must not exceed One Hundred and Forty-Five Thousand Dollars (\$145,000) without a written amendment signed by the Town.
- 5.2. Invoices. The Contractor must submit invoices in the form and with the supporting documentation required by **Exhibit B** and the Town. Each invoice must identify, as applicable, the dates of service, personnel, hours worked, rates, tasks performed, deliverables completed, reimbursable expenses, receipts, grant budget categories, and any other information required for grant reimbursement or reporting.
- 5.3. Allowable Costs Only. The Town is not required to pay for costs that are unallowable, unsupported, outside the scope of Services, incurred outside the authorized period of performance, contrary to the Grant Agreement, after the Grant Expiration Date, or otherwise ineligible for reimbursement or payment.
- 5.4. Payment Conditions. Payment is conditioned on: (a) timely and satisfactory performance of the Services; (b) acceptance of applicable deliverables by the Town; (c) submission of complete and accurate invoices and supporting documentation; (d) availability of lawfully appropriated funds; and (e) compliance with applicable grant requirements.
- 5.5. Withholding and Offset. The Town may withhold payment or offset amounts owed to the Contractor to the extent reasonably necessary to address deficient work, unsupported invoices, disallowed costs, overpayments, breach of this Agreement, unresolved audit issues, or failure to provide required records.
- 5.6. No Interest or Penalty Where Prohibited. No interest, penalty, late fee, or similar charge is payable by the Town except to the extent expressly authorized by applicable law and supported by a lawful appropriation.

6. Grant Compliance

- 6.1. Grant Terms. The Contractor must comply with all terms in the Grant Agreement applicable to the Services and any additional requirements provided to the Contractor in writing by the Town.
- 6.2. Flow-Down Obligations. The Contractor must include all applicable grant, audit, recordkeeping, nondiscrimination, debarment, reporting, insurance, confidentiality, and compliance requirements in any approved subcontract or lower-tier agreement.
- 6.3. Grantor Access and Cooperation. The Contractor must cooperate with the Town, DOLA, the State of Colorado, and any other authorized oversight entity in connection with monitoring, review, inspection, audit, investigation, corrective action, reimbursement, reporting, and grant closeout.
- 6.4. No Impairment of Grant Funding. The Contractor must not take or omit any action that would cause the Town to violate the Grant Agreement, lose grant funding, incur questioned or disallowed costs, miss a grant deadline, or become subject to repayment, penalty, or corrective action.
- 6.5. Notice of Compliance Issues. The Contractor must promptly notify the Town in writing of any actual or potential noncompliance, delay, conflict, ineligibility, audit issue, questioned cost, investigation, or other circumstance that may affect the Project, the Services, or the Town's grant funding.

7. Fiscal Limitations; Appropriation; Grant Funding

- 7.1. Subject to Appropriation and Availability of Funds. All financial obligations of the Town under this Agreement are subject to annual appropriation, budgeting, and the availability of lawfully expendable funds, including applicable grant funds for the Project. If grant funds or other funds for the Services are reduced, delayed, suspended, not appropriated, not available, or terminated, the Town may, without penalty or liability for lost profits or consequential damages, suspend the Services, reduce the scope of Services, terminate this Agreement, or take any other action reasonably necessary to comply with available funding and legal requirements.
- 7.2. No Multiple-Fiscal-Year Debt. Nothing in this Agreement creates or is intended to create a multiple-fiscal-year direct or indirect debt or other financial obligation of the Town in violation of the Colorado Constitution, including Article X, Section 20, or any other applicable fiscal limitation.
- 7.3. No Pledge of Future Revenues. The Town does not pledge, and this Agreement must not be construed to pledge, any future revenues, taxes, or funds beyond amounts lawfully appropriated and available for the then-current fiscal year.

8. Records, Audit, and Retention

- 8.1. Records. The Contractor must create and maintain complete, accurate, and legible records relating to the Services, charges, personnel, subcontractors, deliverables, communications, expenses, compliance, and all other matters necessary to demonstrate performance and support payment, reimbursement, audit, monitoring, and grant closeout.
- 8.2. Access to Records. The Town, the State of Colorado, DOLA, the Colorado State Auditor, and any other authorized governmental or oversight entity may inspect, copy, audit, and examine the Contractor's records relating to this Agreement upon reasonable notice, or without notice where required by law or the Grant Agreement.
- 8.3. Retention Period. The Contractor must retain records for the longer of: (a) three (3) years after final payment; (b) the period required by the Grant Agreement; (c) the period required by applicable law; or (d) until all audits, disputes, investigations, claims, and closeout issues are finally resolved.
- 8.4. Survival. The obligations in this Section survive expiration or termination of this Agreement.

9. Disallowed Costs and Repayment

- 9.1. Responsibility for Disallowed Costs. The Contractor is responsible for any cost that is disallowed, questioned, rejected, or required to be returned as a result of the Contractor's breach of this Agreement, inadequate documentation, false or inaccurate invoice, unallowable charge, failure to comply with grant requirements, negligence, willful misconduct, or violation of law.
- 9.2. Repayment and Offset. Upon demand by the Town, the Contractor must return payment of disallowed reimbursable amounts as determined by DOLA per the Grant Agreement. The Town may offset disallowed reimbursable amounts against sums otherwise owed to the Contractor.
- 9.3. Survival. The obligations in this Section survive expiration or termination of this Agreement.

10. Independent Contractor

- 10.1. Status. The Contractor is an independent contractor and is not an employee, officer, agent, partner, joint venturer, or representative of the Town.
- 10.2. No Authority to Bind Town. The Contractor has no authority to bind the Town, make representations on behalf of the Town, incur obligations on behalf of the Town, or act as the Town's agent except as expressly authorized in separate writing by the Town.
- 10.3. Taxes and Benefits. The Contractor is solely responsible for all taxes, withholdings, payroll obligations, unemployment insurance, workers' compensation, employee benefits, and other obligations relating to the Contractor and Contractor's personnel.

10.4. Control of Work. The Contractor is responsible for the means, methods, techniques, sequences, and procedures used to perform the Services, subject to the requirements of this Agreement, the Grant Agreement, and the Town's right to review, accept, reject, monitor, and direct outcomes consistent with this Agreement.

11. Insurance

11.1. Required Insurance. Before beginning the Services and throughout the term of this Agreement, the Contractor shall obtain and maintain, at the Contractor's expense, the types, forms, and coverage(s) of insurance deemed by the Contractor to be sufficient to meet or exceed the Contractor's minimum statutory and legal obligations, as well as the following policies:

11.1.1. Worker's Compensation insurance in the minimum amount required by applicable law for all employees and other persons as may be required by law.

11.1.2. Comprehensive General Liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000.00) each occurrence and of Two Million Dollars (\$2,000,000.00) aggregate. The policy shall be applicable to all premises and all operations of the Contractor. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis. Such insurance shall be endorsed to name the Town as Certificate Holder and name the Town, and its elected officials, officers, employees and agents as additional insured parties.

11.1.3. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000.00) each occurrence with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interests provision. Such insurance coverage must extend to all levels of subcontractors. Such coverage must include all automotive equipment used in the performance of the Services, both on the work site and off the work site, and such coverage shall include non-ownership and hired cars coverage. Such insurance shall be endorsed to name the Town as Certificate Holder and name the Town, and its elected officials, officers, employees and agents as additional insured parties.

11.1.4. Professional Liability (errors and omissions) insurance with a minimum limit of coverage of One Million Dollars (\$1,000,000.00) per claim and annual aggregate. Such policy of insurance shall be obtained and maintained for one (1) year following completion of all Services under this Agreement. Such policy of insurance shall be endorsed to include the Town as a Certificate Holder.

11.2. Additional Requirements. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least thirty (30) days prior written notice to the Town. In the case

of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy. For any and all insurance policies required hereunder, Contractor shall waive subrogation rights against the Town.

11.3. Insurance Certificates. Contractor shall provide the Town a certificate of insurance and all endorsements required hereunder as evidence that the required policies are in full force and effect prior to the commencement of the Services. The certificate shall identify the Project/Services Name as set forth on the first page of this Agreement.

11.4. Failure to Obtain or Maintain Insurance. The Contractor's failure to obtain and continuously maintain policies of insurance shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Contractor arising from performance or non-performance of this Agreement. Failure on the part of the Contractor to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the Town may immediately terminate this Agreement, or, at its discretion, the Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith. All monies so paid by the Town, together with an additional five percent (5%) administrative fee, shall be repaid by the Contractor to the Town immediately upon demand by the Town. At the Town's sole discretion, the Town may offset the cost of the premiums against any monies due to the Contractor from the Town pursuant to this Agreement.

11.5. No Limitation. Insurance requirements do not limit the Contractor's liability, indemnity obligations, or other obligations under this Agreement.

12. Indemnification

12.1. Contractor Indemnity. To the fullest extent permitted by law, the Contractor must indemnify and hold harmless the Town and its officers, officials, employees, agents, and representatives from and against all claims, demands, damages, losses, liabilities, fines, penalties, costs, expenses, judgments, and reasonable attorneys' fees arising out of or relating to: (a) the Contractor's negligent performance or nonperformance of the Services; (b) the negligent acts or omissions of the Contractor or its personnel, subcontractors, suppliers, or agents; (c) breach of this Agreement; (d) violation of law or grant requirements; (e) employment-related claims by the Contractor's personnel or subcontractors; (f) infringement or misappropriation of intellectual property rights; (g) confidentiality, privacy, cybersecurity, or data-security incidents caused by the Contractor; or (h) disallowed costs attributable to the Contractor.

12.2. No Town Indemnity. The Town does not indemnify, defend, or hold harmless the Contractor except to the extent expressly authorized by law, expressly approved in writing by the Town, and supported by a lawful appropriation.

12.3. Survival. The obligations in this Section survive expiration or termination of this Agreement.

13. No Waiver of Governmental Immunity

- 13.1. Reservation of Immunity. Nothing in this Agreement waives, limits, modifies, or is intended to waive, limit, or modify any immunity, defense, limitation, or protection available to the Town or its officers, officials, employees, agents, or representatives under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., or any other applicable law.
- 13.2. No Consent Beyond Law. No provision of this Agreement constitutes consent to suit, waiver of notice requirements, waiver of damages limitations, waiver of defenses, or waiver of any other protection available to the Town except to the extent expressly required by applicable law.

14. Public Records and Confidentiality

- 14.1. Public Records. The Contractor acknowledges that records submitted to, maintained for, or used by the Town may be subject to the Colorado Open Records Act, C.R.S. § 24-72-200.1 et seq., and other public-records laws.
- 14.2. Cooperation. The Contractor must promptly cooperate with the Town in responding to public-records requests, subpoenas, audits, investigations, and other lawful requests for information relating to this Agreement.
- 14.3. Confidential Information. The Contractor must keep confidential all nonpublic information received from or on behalf of the Town and may use such information only to perform the Services. The Contractor may not disclose confidential information except as authorized by the Town or required by law.
- 14.4. Designation of Confidential Materials. If the Contractor believes any material submitted to the Town contains confidential, proprietary, trade secret, or otherwise protected information, the Contractor must clearly identify that material at the time of submission and state the basis for the claimed protection. The Town retains final authority to determine its disclosure obligations under applicable law.
- 14.5. No Restriction on Required Disclosure. Nothing in this Agreement requires the Town to withhold records where disclosure is required by law.

15. Data Security and Privacy

- 15.1. Applicability. This Section applies if the Contractor accesses, receives, stores, transmits, processes, or maintains municipal data, personal information, confidential information, credentials, systems, networks, or other protected information.
- 15.2. Safeguards. The Contractor must implement and maintain administrative, technical, and physical safeguards appropriate to the nature of the information and the Services, and in no event less than commercially reasonable safeguards.

- 15.3. Use Limitation. The Contractor may use municipal data only to perform the Services and may not use municipal data for marketing, analytics unrelated to the Services, artificial intelligence training, product development, or any other purpose without the Town's prior written consent.
- 15.4. Security Incidents. The Contractor must notify the Town promptly, and in no event later than twenty-four (24) hours after discovery, of any actual or suspected unauthorized access, acquisition, use, disclosure, loss, compromise, or breach involving municipal data or systems.
- 15.5. Return or Destruction. Upon request or upon termination, the Contractor must return or securely destroy municipal data, except to the extent retention is required by law, the Grant Agreement, audit requirements, or this Agreement.

16. Work Product and Intellectual Property

- 16.1. Work Product. All reports, analyses, plans, drawings, specifications, data, recommendations, training materials, documents, records, deliverables, and other work product created specifically for the Town under this Agreement are the property of the Town upon payment, subject to the Contractor's rights in pre-existing materials identified under Section 16.2. Notwithstanding the foregoing, any modifications made by the Town to any of the Contractor's documents, or any use, partial use or reuse of the documents without written authorization or adaptation by the Contractor will be at the Town's sole risk and without liability to the Contractor.
- 16.2. Pre-Existing Materials. The Contractor retains ownership of materials, tools, templates, methodologies, software, know-how, and other intellectual property developed or acquired independently of this Agreement. To the extent such materials are incorporated into the deliverables, the Contractor grants the Town a perpetual, irrevocable, royalty-free, nonexclusive license to use, reproduce, display, distribute, modify, and create derivative works from those materials for municipal, Project, grant, audit, reporting, and public purposes.
- 16.3. Third-Party Rights. The Contractor must obtain all rights, licenses, permissions, and releases necessary for the Town to use the deliverables as contemplated by this Agreement.
- 16.4. Grant Reporting. The Town may submit, reproduce, disclose, publish, and retain work product as necessary or appropriate for grant administration, public records, municipal operations, audit, reporting, and compliance.

17. Conflicts of Interest; Ethics

- 17.1. No Conflict. The Contractor represents that, as of the Effective Date, it has no actual, potential, or perceived conflict of interest that would impair its ability to perform the Services or compromise the integrity of the Project.
- 17.2. Continuing Duty. The Contractor must promptly disclose any actual, potential, or perceived conflict of interest that arises during the term of this Agreement.

17.3. No Improper Influence. The Contractor must not offer, give, solicit, or accept any gift, gratuity, kickback, contingent fee, bribe, favor, or other thing of value for the purpose of influencing the award, administration, performance, payment, or oversight of this Agreement or the grant.

17.4. Municipal Ethics Rules. The Contractor must comply with applicable municipal ethics, procurement, conflict-of-interest, and anti-corruption rules and policies.

18. Debarment; Eligibility; Procurement Integrity

18.1. Eligibility. The Contractor represents that it is not debarred, suspended, excluded, disqualified, or otherwise ineligible to receive public funds or perform public contracts.

18.2. Notice. The Contractor must promptly notify the Town if the Contractor or any approved subcontractor becomes debarred, suspended, excluded, disqualified, investigated for procurement misconduct, or otherwise ineligible during the term of this Agreement.

18.3. Procurement Integrity. The Contractor represents that it has not obtained this Agreement through collusion, fraud, improper influence, or violation of applicable procurement requirements.

19. Subcontracting and Assignment

19.1. No Subcontracting Without Consent. The Contractor may not subcontract any Services without the Town's prior written consent. Approval of a subcontractor performing any of the Services shall require an amendment to this Agreement and for the subcontractor to enter a separate agreement with the Town for the assigned Services. This provision does not apply to consultants that are hired as contractors to complete certain technical reports that are necessary to complete the Project, as such technical consultant services are not part of the Services. Notwithstanding the foregoing, the Contractor does not have the authority to enter any agreement binding the Town for technical consultant services. Contractors performing technical consultant services shall enter a services agreement directly with the Town as approved by the Town Administrator or Board of Trustees, as applicable per Town policies.

19.2. Responsibility for Subcontractors. The Contractor remains fully responsible for all acts, omissions, performance, nonperformance, compliance, and payment obligations of its subcontractors.

19.3. Flow-Down Terms. The Contractor must bind each approved subcontractor to written terms at least as protective of the Town as this Agreement, including all applicable grant, audit, public records, confidentiality, insurance, indemnity, data-security, and compliance requirements.

19.4. No Assignment. The Contractor may not assign this Agreement, any payment, or any right or obligation under this Agreement without the Town's prior written consent. Any attempted assignment without consent is void.

20. Legal Compliance and Nondiscrimination

- 20.1. Compliance with Laws. The Contractor must comply with all applicable federal, state, and local laws, rules, regulations, ordinances, orders, and policies applicable to the Services.
- 20.2. Nondiscrimination. The Contractor must not discriminate on the basis of any status protected by applicable law in performing this Agreement.
- 20.3. Accessibility. To the extent the Services include public-facing materials, meetings, technology, websites, notices, programs, or facilities, the Contractor must comply with applicable accessibility requirements and Town instructions.
- 20.4. Safety. The Contractor is responsible for the safety of its personnel and subcontractors and must comply with applicable workplace safety requirements.

21. Project Management; Reporting; Monitoring

- 21.1. Town Representative. The Town's representative for this Agreement is the Town Administrator, or the designee thereof (the "**Town Representative**").
- 21.2. Contractor Representative. The Contractor's representative for this Agreement is Blake Young.
- 21.3. Progress Reports. The Contractor must provide progress reports at the frequency and in the form required by **Exhibit A** or by the Town Representative.
- 21.4. Monitoring. The Town may monitor, review, inspect, and evaluate the Services, deliverables, records, and performance under this Agreement. Monitoring or review by the Town does not relieve the Contractor of responsibility for proper performance.
- 21.5. Corrective Action. If the Town identifies deficiencies, noncompliance, delay, or risk to grant funding, the Contractor must promptly submit and implement a corrective-action plan acceptable to the Town.

22. Changes in Services

- 22.1. Written Changes Required. No change in scope, compensation, schedule, deliverables, key personnel, grant requirements, or other material term is effective unless documented in a written amendment or change order signed by the Town Representative.
- 22.2. No Oral Modification. Oral statements, field directions, emails, meeting notes, or informal communications do not authorize additional compensation, additional time, or a change in the Services unless incorporated into a written amendment or change order signed by the Town Representative. No amendment or change order can increase the Not-to-Exceed Amount without approval of the Board.

22.3. Grant Approval. Any change requiring DOLA approval is not effective until the required approval from DOLA has been obtained.

23. Suspension

23.1. Suspension by Town. The Town may suspend all or part of the Services upon written notice if: (a) grant funding is delayed, suspended, reduced, or under review; (b) the Town requires time to address compliance, budget, appropriation, or Project issues; (c) the Contractor is in breach; or (d) suspension is otherwise in the Town's interest.

23.2. Effect of Suspension. During suspension, the Contractor must stop the suspended Services, take reasonable steps to protect completed work, avoid unnecessary costs, and resume work only upon written authorization from the Town.

24. Termination

24.1. Termination for Public Interest. The Town is entering into this Agreement to serve the public interest of the Town as determined by the Board. If this Agreement ceases to further the public interest of the Town, or if funds used for this Agreement are not appropriated or otherwise become unavailable to fund this Agreement, the Town, as directed by the Board in its sole discretion, may terminate this Agreement in whole or in part by providing written notice to Contractor that includes, to the extent practicable, the purpose for termination. Termination shall be immediate upon delivery.

24.2. Termination for Cause. The Town may terminate this Agreement for cause if the Contractor breaches this Agreement, fails to perform the Services, fails to meet grant requirements, submits false or unsupported invoices, fails to maintain insurance, becomes ineligible, has an unmitigated conflict of interest, or violates applicable law.

24.3. Immediate Termination. The Town may terminate this Agreement immediately upon written notice if required by law, required by DOLA, necessary to protect grant funding, necessary to protect public health or safety, or necessary because funds are not appropriated or available.

24.4. Payment After Termination. Upon termination, the Town will pay the Contractor for authorized, accepted, and allowable Services satisfactorily performed before the effective date of termination, subject to appropriation, availability of funds, grant eligibility, offsets, and the terms of this Agreement. The Town is not liable for lost profits, unabsorbed overhead, consequential damages, or costs incurred after termination except as expressly authorized in writing.

24.5. Transition. Upon termination or expiration, the Contractor must cooperate in transition, provide all records and work product, return municipal property and data, and perform closeout tasks reasonably requested by the Town.

25. Default and Remedies

- 25.1. Default. The Contractor is in default if it fails to perform any obligation under this Agreement, fails to comply with Grant Agreement requirements, fails to meet applicable deadlines, fails to maintain required insurance, becomes ineligible, or otherwise acts or omits to act in a manner that materially impairs the Project or the Town's grant funding.
- 25.2. Remedies. The Town may exercise any remedy available at law, in equity, under this Agreement, or under the Grant Agreement, including withholding payment, requiring correction or re-performance, offset, suspension, termination, recovery of disallowed costs, procurement of substitute services, and recovery of damages.
- 25.3. Cumulative Remedies. Remedies are cumulative and not exclusive. Exercise of one remedy does not waive any other remedy.

26. Limitation of Liability

- 26.1. Limitation. In recognition of the relative risks and benefits of the Project to the Town and Contractor, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement except for Section 26.2 below, the total liability, in the aggregate, of Contractor and Contractor's officers, directors, employees, agents, and subconsultants to the Town or to any person or entity claiming by, through or under the Town, for any and all claims, losses, costs, attorneys' fees, or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of Contractor or Contractor's officers, directors, employees, agents, and subconsultants, shall not exceed all insurance proceeds actually paid or payable to the Town, or paid or payable on the Contractor's behalf for the Town's benefit, under any insurance policy maintained by or required to be maintained by the Contractor under this Agreement, plus twice the total compensation received by Contractor under this Agreement.
- 26.2. Excluded Claims. Any limitation of liability does not apply to: (a) indemnification obligations; (b) fraud, willful misconduct, or gross negligence; (c) breach of confidentiality, privacy, or data-security obligations; (d) intellectual-property infringement or misappropriation; (e) employment, tax, or workers' compensation obligations; (f) failure to obtain, maintain, or comply with required insurance obligations; (g) disallowed costs, repayment obligations, or false claims; (h) amounts payable due to violation of law or grant requirements; or (i) all claims, losses, and damages covered by, or required to be covered by, Contractor's insurance policies required by this Agreement, including professional liability coverage. The Contractor shall promptly notify its insurers of any claim or circumstance that may give rise to a claim and shall take all actions reasonably necessary to preserve available coverage. The Contractor may not rely on a deductible, self-insured retention, exclusion, coverage defense, insolvency, failure to procure or maintain insurance, late notice, failure to tender, or other act or omission of the Contractor or its

insurers to reduce the Town's recovery below the insurance proceeds that would have been available had the Contractor fully complied with its insurance obligations under this Agreement.

27. Dispute Resolution; Governing Law; Venue

- 27.1. Good-Faith Resolution. The Parties will attempt in good faith to resolve disputes through discussions between authorized representatives before filing litigation, unless immediate legal action is necessary to preserve rights, protect public interests, comply with grant requirements, or prevent harm.
- 27.2. Governing Law. This Agreement is governed by the laws of the State of Colorado, without regard to conflict-of-law principles.
- 27.3. Venue. Venue for any action arising out of or relating to this Agreement lies exclusively in the state courts located in Elbert County, Colorado, unless exclusive jurisdiction lies elsewhere as a matter of law.
- 27.4. No Mandatory Arbitration. No dispute is subject to mandatory arbitration unless the Town expressly agrees in a written amendment approved by the Town's governing body or other authorized official.
- 27.5. No Waiver of Protections. Nothing in this Agreement waives governmental immunity, fiscal limitations, notice requirements, damages limitations, or other protections available to the Town.

28. Notices

- 28.1. Method of Notice. Notices under this Agreement must be in writing and delivered by personal delivery, certified mail, or nationally recognized courier, to the addresses below or to any updated address provided by notice.

<u>To the Town:</u>	<u>To Contractor:</u>
Town of Kiowa Attn: Town Administrator PO Box 237 404 Comanche Street Kiowa, CO 80117 Email: KBoyd@townofkiowa.com	Kimley-Horn and Associates, Inc. Attn: Blake Young, AICP 1125 17 th Street, Ste. 1400 Denver, CO 80202 Email: Blake.Young@Kimley-Horn.com
With Copy to: Kiowa Town Attorney Michow Guckenberger & McAskin LLP 5299 DTC Boulevard, Suite 300 Greenwood Village, Colorado 80111 Email: JMyers@mgmfirm.com	With Copy to: N/A

28.2. Effective Date of Notice. Notice is effective upon delivery, rejection, or documented inability to deliver. A notice shall be deemed delivered or rejected on the day of delivery or attempted delivery if made by personal delivery or the date of delivery or rejection as provided by the mail or courier service documentation.

29. General Provisions

29.1. Entire Agreement. This Agreement, including its exhibits and incorporated documents, is the entire agreement between the Parties concerning the Services and supersedes all prior or contemporaneous agreements, proposals, negotiations, and communications concerning the Services.

29.2. Amendments. This Agreement may be amended only by a written instrument signed by authorized representatives of both Parties.

29.3. Severability. If any provision of this Agreement is held invalid or unenforceable, the remaining provisions remain in effect to the fullest extent permitted by law.

29.4. Waiver. A waiver is effective only if in writing and signed by the waiving Party. Failure to enforce a provision is not a waiver of future enforcement.

29.5. No Third-Party Beneficiaries. Except for indemnified parties and entities with audit, monitoring, or enforcement rights under the Grant Agreement or applicable law, this Agreement does not create rights in any third party.

29.6. Counterparts and Electronic Signatures. This Agreement may be executed in counterparts and by electronic signature, each of which is deemed an original and all of which together constitute one instrument.

29.7. Survival. Provisions that by their nature should survive expiration or termination survive, including provisions concerning payment adjustments, audit, records, public records, confidentiality, data security, indemnification, governmental immunity, intellectual property, disallowed costs, dispute resolution, governing law, and remedies.

{Signature page follows.}

THIS AGREEMENT is effective as of the date provided in the first paragraph.

TOWN OF KIOWA, COLORADO:

By: _____
Kimberly Boyd, Town Administrator
Authorized by Resolution No. 2026-XX

Date of execution: _____

ATTEST:

Sasha Davidson, Town Clerk

APPROVED AS TO FORM (*excluding exhibits*):

Joshua Myers, Town Attorney

CONTRACTOR:

Kimley-Horn and Associates, Inc., a North Carolina Corporation

By: _____

Printed Name: _____

Title: _____

Date of execution: _____

» MP 83

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement for Professional Services was subscribed, sworn to, and acknowledged before me this ____ day of _____, 20____, by _____ (printed name) as _____ (title) of Kimley-Horn and Associates, Inc., a North Carolina Corporation.

My commission expires: _____

(S E A L)

Notary Public

EXHIBIT A
SCOPE OF SERVICES

Grant Agreement Reporting Requirements

The Contractor must prepare and submit the following reports to the Town Administrator:

1. Quarterly written reports summarizing work completed, project status, milestones achieved, consultant activities, community engagement activities, upcoming tasks, and grant compliance.
2. Final memorandum documenting project activities, outcomes, adopted policies, next steps, community engagement efforts, affordable housing outcomes, lessons learned, and overall project impacts.

August 6, 2026

Kimberly Boyd
Town Administrator - Town of Kiowa
404 Comanche Street
Kiowa, CO 80117

Re: Exhibit A: Professional Consulting Services – Scope of Work
Town of Kiowa – Housing and Community Development Technical Support

Dear Ms. Boyd,

Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Consultant”) has proposed a scope of services for the Town of Kiowa (“Client”) regarding the Housing and Community Development Technical Support (the “Project”). Kimley-Horn will provide GIS, mapping, parcel analysis, and development-capacity support.

All deliverables and materials provided under this scope will include two revisions. Additional revisions are considered out of scope.

PROFESSIONAL SERVICES

TASK 1 – PROJECT MANAGEMENT

Kimley-Horn will work with the Town and Davidson Consulting Solutions to schedule regular project meetings to discuss deliverables and project-related needs. These meetings are anticipated to be brief bi-weekly or monthly conference calls to review progress of each task, direction of each task, and required adjustments of approach or project understanding. Following the completion of the project kick-off meeting, Kimley-Horn will organize a consultant team kick-off meeting to transfer the project direction to all team members and set protocols for internal coordination, communication, and other business practices.

Kimley-Horn will provide quarterly written reports summarizing work completed, project status, milestones achieved, consultant activities, community engagement activities, upcoming tasks, and grant compliance.

TASK 2 – EXISTING CONDITIONS

Kimley-Horn will review all relevant planning initiatives, land use plans, infrastructure documents, and development plans. Our team will create a list of data needed to complete our work. We will coordinate with the Town, outside agencies, and other relevant agencies to gather all available pertinent data. If the needed infrastructure or utility data does not exist, Kimley-Horn is not responsible for manually developing this data. Kimley-Horn will identify significant data gaps, conflicting information, outdated information, and information requiring verification by the Town or utility providers.

Kimley-Horn will develop a Regional Context Map showing the relationship between the Town of Kiowa and Elizabeth, Elbert County, transportation corridors, and other relevant regional features. This map will coincide with the Elbert County Comprehensive Plan to reinforce the County’s goals and policies.

TASK 3 – COMMUNITY CONTEXT ANALYSIS

Kimley-Horn will prepare a Town basemap showing parcels, town limits, roadways, public facilities, schools, parks and open spaces, and other relevant natural features as available. This map will be used

as a reference map throughout the Study. In addition to the basemap, Kimley-Horn will prepare a zoning map showing all current zoning classifications and parcel boundaries. Kimley-Horn will provide a Community Context Memo summarizing the total acreage by zoning district, vacant parcel acreage, and publicly or institutionally controlled acreage. This memo will also identify inconsistencies between current zoning, existing land use, and future land use designations in the Comprehensive Plan.

TASK 4 – INFRASTRUCTURE ANALYSIS

Kimley-Horn will prepare an existing water/wastewater infrastructure map using available utility records, as-built drawings, prior planning documents, and information supplied by the Town or the Kiowa Water and Wastewater Authority. This map will illustrate the existing water/wastewater facilities, wells, tanks, transmission lines, major distribution mains, known trunk or primary service lines and connections, and major sewer mains. Using this map, Kimley-Horn will analyze existing service boundaries, planned improvements, and highlight areas outside the water service areas.

Kimley-Horn will identify known limitations in the source data and will present this material at a planning level of detail with approximate locations of infrastructure. This map will not represent a detailed water/wastewater capacity analysis, condition assessment, infiltration and inflow analysis, or certification of service availability and will be used solely for planning level purposes only.

Kimley-Horn will provide a constraints assessment to identify existing easements, floodplains, and access constraints to existing parcels. Kimley-Horn will map easements and access constraints that can reasonably be identified from available GIS files, recorded plats, subdivision documents, utility records, and Town information, including:

- Utility, drainage, access, and conservation easements;
- Public rights-of-way;
- Highway access-control areas;
- Known pipeline or transmission corridors.

This mapping exercise will be based on available planning and public records and is not a substitute for title work, a land survey, or a legal opinion regarding property rights.

Due to the unknown availability of data and information to be provided, Kimley-Horn will complete this task on an hourly basis with a not-to-exceed amount provided below.

TASK 5 – DEVELOPMENT CAPACITY ANALYSIS

Kimley-Horn will conduct a parcel analysis of public, private, and vacant, parcels. First, we will prepare a parcel-based inventory to outline the ownership status of each parcel. This inventory will be accompanied by a parcel analysis map to illustrate the location, size, and general potential of each parcel throughout the Town of Kiowa. Along with the parcel analysis map, Kimley-Horn will utilize the information gathered in Tasks 2 and 4 to show the relationship between zoning, ownership, and growth areas to available and existing infrastructure including water/wastewater, drainage and floodplain constraints, and roadway access.

Using this analysis, we will partner with the Town of Kiowa and Davidson Consulting Solutions to create a Development Ranking System to evaluate where development opportunities exist. Factors to be included in this ranking system may include parcel size, location, access, ownership, and utility access. This

analysis will be used for illustrative purposes to guide the identification of potential development opportunities, illustrate the development capacity throughout the Town, and support the partnership between landowners, future developers, and the Town.

This analysis will help the Town identify areas that may be more readily served by existing infrastructure, areas that may require future infrastructure extensions, and locations where development potential may be affected by parcel fragmentation, ownership patterns, access limitations, or existing easements. The analysis will also help highlight areas that warrant additional technical investigation to better understand development opportunities and constraints.

Total Project Fee:

Task		Fee Type	Fee
1	Project Management	Hourly, Not-To-Exceed	\$11,339
2	Existing Conditions	Hourly, Not-To-Exceed	\$22,420
3	Community Context Analysis	Hourly, Not-To-Exceed	\$32,800
4	Water/Wastewater Infrastructure Analysis	Hourly, Not-To-Exceed	\$34,725
5	Development Capacity Analysis	Hourly, Not-To-Exceed	\$39,875
	Total Expenses		\$3,841
	Total Project Fee		\$145,000

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, an invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Provisions, which are incorporated by reference. Any tasks not identified in this Agreement will be deemed out of scope and will require formal approval by both parties at an additional agreed upon fee. If required data is not available in a digital format at the time of the analysis, Kimley-Horn will not be responsible for the collection, creation, or assembly of such data.

EXHIBIT B

COMPENSATION AND INVOICING

B.1 Compensation Structure

Subject to the terms and conditions in the Agreement, the Town will compensate the Contractor as follows:

Compensation method: Hourly rate at the rates attached hereto.

Not-to-Exceed Amount: \$145,000

Reimbursable expenses: None unless pre-approved in writing by the Town Administrator, which may include: mileage; meeting related supplies and materials; postage; venue rental fees; other reasonable Project-related expenses that are allowable as recoverable costs under the Grant Agreement.

Notwithstanding the foregoing, reimbursable expenses fall under the Not-to-Exceed Amount and under no circumstance shall the Contractor's combined hourly compensation and reimbursable expenses exceed the Not-to-Exceed Amount. The Contractor is responsible for its own budget.

B.2 Invoice Requirements

Each invoice must include:

1. Agreement name or number.
2. Grant name and number.
3. Invoice period.
4. Date of service.
5. Personnel performing work.
6. Hours, rates, and task descriptions, if hourly compensation.
7. Deliverables completed or milestones achieved.
8. Receipts and supporting documentation for pre-approved reimbursable expenses.
9. Grant budget category or cost category, if required.
10. Certification that the invoice is true, accurate, complete, allowable, and not duplicative (per below).

B.3 Invoice Certification

Each invoice must include the following certification, signed by an authorized representative of the Contractor:

I certify that the amounts invoiced are true, accurate, complete, allowable under the Agreement and applicable grant requirements, incurred for the Project, not previously billed or reimbursed, and supported by records provided herewith and maintained by the Contractor.

B.4 Payment Schedule

Contractor's Invoices that meet the requirements above shall be payable 30 days after receipt by the Town Administrator.

B.5 Disallowed Costs

As set forth in the Agreement, the Contractor must repay or credit any disallowed cost attributable to the Contractor as required by the Agreement.

TOWN OF KIOWA

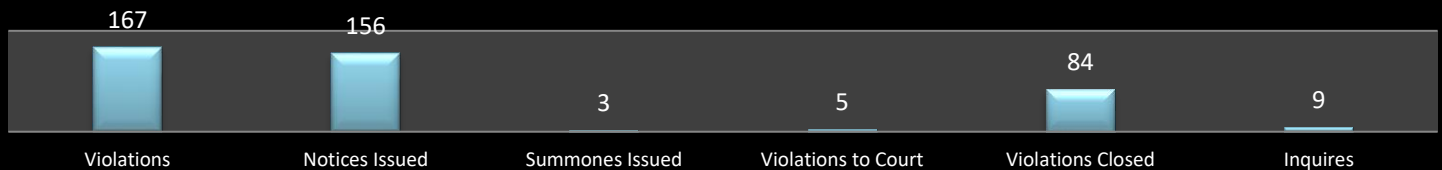
2ND QT 2026 REPORT

CPS conducts inspections throughout the Town, prepares code enforcement cases, and manages the related administrative work, including phone calls, emails, resident inquiries, and reported concerns. CPS also follows up on previously opened cases and patrols for new violations. CPS continues to work closely with Town staff, outside agencies to address code enforcement matters and provide assistance to residents.

During this reporting period, Code Enforcement addressed **167 violations**, issued **156 notices**, referred **5 violations to Municipal Court**, and **assisted with 9 inquiries** requiring a field inspection, research, or additional information. CPS also completed follow-up on all case-related and general phone calls and emails.

Case numbers may vary based on the type and complexity of each case, the level of cooperation and communication with residents, research requirements, property ownership issues, coordination with Town staff and outside agencies, and the administrative work necessary to bring cases to resolution.

2026 2nd Quarter



Types of Violations

