



TOWN OF ESTES PARK

The Mission of the Town of Estes Park is to provide high-quality, reliable services for the benefit of our citizens, guests, and employees, while being good stewards of public resources and our natural setting.

The Town of Estes Park will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements for persons with disabilities. Please call (970) 577-4777. TDD available.

BOARD OF TRUSTEES - TOWN OF ESTES PARK
Tuesday, September 8, 2015
7:00 p.m.

PLEDGE OF ALLEGIANCE.

(Any person desiring to participate, please join the Board in the Pledge of Allegiance).

PUBLIC COMMENT. (Please state your name and address).

TOWN BOARD COMMENTS / LIAISON REPORTS.

TOWN ADMINISTRATOR REPORT.

1. CONSENT AGENDA:

1. Town Board Minutes dated August 25, 2015 and Town Board Study Session Minutes dated August 25, 2015.
2. Bills.
3. Committee Minutes:
 - A. Community Development & Community Services Committee, August 27, 2015.
 1. Resolution #14-15 Surprise Sidewalk Sale, October 10 and 11, 2015.
4. Estes Park Board of Appeals Minutes dated August 6, 2015 (acknowledgement only).
5. Estes Valley Board of Adjustment Minutes dated July 28, 2015 (acknowledgement only).

2. REPORT AND DISCUSSION ITEMS (Outside Entities):

1. VISIT ESTES PARK UPDATE. – WHERE WE ARE NOW. President & CEO Fogarty.

3. **ACTION ITEMS:**

1. **ORDINANCE #12-15 ADD MUNICIPAL CODE CHAPTER 7.20 WILDLIFE PROTECTION.** Chief Kufeld.

4. **REQUEST TO ENTER EXECUTIVE SESSION:**

24-6-402(4)(f), C.R.S. - For discussion of a personnel matter and not involving: any specific employees who have requested discussion of the matter in open session; any member of the Town Board (or body); the appointment of any person to fill an office of the Town Board (or body); or personnel policies that do not require discussion of matters personal to particular employees, Police Patrol Personnel.

Motion: I move the Town Board to into Executive Session – For discussion of a personnel matter and not involving: any specific employees who have requested discussion of the matter in open session; any member of the Town Board (or body); the appointment of any person to fill an office of the Town Board (or body); or personnel policies that do not require discussion of matters personal to particular employees., under C.R.S. 24-6-402(4)(f) – Police Patrol Personnel.

5. **ADJOURN.**

Town of Estes Park, Larimer County, Colorado, August 25, 2015

Minutes of a Regular meeting of the Board of Trustees of the Town of Estes Park, Larimer County, Colorado. Meeting held in the Town Hall in said Town of Estes Park on the 25th day of August 2015.

Present: William C. Pinkham, Mayor
Wendy Koenig, Mayor Pro Tem
Trustees John Ericson
Bob Holcomb
Ward Nelson
Ron Norris
John Phipps

Also Present: Frank Lancaster, Town Administrator
Travis Machalek, Assistant Town Administrator
Greg White, Town Attorney
Town Clerk Williamson
Finance Officer McFarland
Barbara Jo Limmiatis, Recording Secretary

Absent: None

Mayor Pinkham called the meeting to order at 7:00 p.m. and all desiring to do so, recited the Pledge of Allegiance.

SWEARING IN: Town Clerk Williamson performed the formal swearing-in ceremony of Code Compliance Officer Linda Hardin.

PROCLAMATION.

Mayor Pinkham proclaimed September 2015 as "Give Where You Live, Work and Play Month".

PUBLIC COMMENTS.

Jane Livingston, town resident, presented documents, data and recommendations on behalf of the Estes Park Vacation Home Owners Association related to the proposed changes to vacation home regulations and requested staff add the topic to the September 22, 2015 Town Board Study Session agenda.

Glenn Smith, town resident and business owner, stated 90% of his customers want use of their property and would not consider long term rental. He also stated if the Town restricts the number of homes as vacation rentals, properties would have fewer buyers and become more difficult to sell.

Julie Reichle, town resident, stated she owns a vacation rental and has followed the developments related to the issue closely. She believes the Board and staff should look at the reported problems to determine the major issues and strict enforcement would solve most problems associated with vacation homes.

Tim Curfman, town vacation home owner, told the Board the circumstances in which he became a vacation home owner and how he hopes to become an active member of the community once he retires here. He stated the favorable climate for vacation homes in Estes Park allows many like himself the ability to subsidize the cost of a home they could not otherwise afford and believes increasing the regulations would threaten the potential for individuals to relocate.

Board of Trustees – August 25, 2015 – Page 2

Chuck Taylor, town vacation home owner, expressed concerns over the proposed regulations on vacation homes, he stated many owners spent a significant amount of money to improve the homes in the area for the purpose of short term rental and would like to review the police reports of complaints related to vacation homes.

Glen Malpiede, town resident, stated in his experience many home owners have tried and would never again rent their homes as a long term rentals due to the seasonal economy in Estes Park. As winter approaches, renters are unable to make payments. Long term rental housing can only be resolved by increasing year round employment.

TRUSTEE COMMENTS.

Trustee Ericson updated the Board on the recent activity of the Transportation Advisory Board, the upcoming Community Development/Community Services Committee meeting and the increases in visitation reported by Rocky Mountain National Park.

Trustee Nelson stated the Open Lands Advisory Board meeting was cancelled due to a lack of agenda items.

Trustee Phipps reported the Planning Commission design approval of the Visitor Center Parking Structure, reviewed the schedule for the adoption of vacation home regulations and stated Director Chilcott would present the basics of zoning at the next Planning Commission meeting.

Trustee Norris informed the Board of the upcoming Visit Estes Park Board meeting and the improvements made by the pothole repair truck to Dry Gulch Road.

Mayor Pinkham provided the background of the Sister Cities partnership and stated members from Monteverde, Costa Rica would visit Estes Park in October 2015 to renew the updated agreement.

TOWN ADMINISTRATOR REPORT.

Administrator Lancaster informed the Board the Economic Development Corporation voted to accept the recommendations from NEO Fiber and would ask the Town to consider moving forward with them as well. The Downtown Neighborhood Plan consultant interviews would take place on September 27, 2015 and staff's recommendation would come to the next Board meeting. The Visitor Center Parking Structure final design awaits environmental approval, but should go out for bids by the end of the year. The Light & Power Division has completed the flood restoration work at Windcliff ahead of schedule and under budget.

1. CONSENT AGENDA:

1. Town Board Minutes dated August 11, 2015 and Town Board Study Session Minutes dated August 11, 2015.
2. Bills.
3. Committee Minutes:
 - A. Public Safety, Utilities & Public Works Committee, August 13, 2015.
 1. Adam Tree Service for Seasonal Display Installation, Maintenance and Removal for 2015 – 2018 - \$108,000 – 2015/2016, \$109,500 – 2016/2017 and \$111,250 -2017/2018 – Subject to appropriations.
 2. Dodge 5500 Light & Power Bucket Truck, Altec Industries, \$185,158.64 – Budgeted.
 3. Dodge Diesel Light & Power Truck only, Johnson Auto Plaza Inc., \$46,839 – Budgeted.
 4. Light & Power Breakroom Remodel Contract, B&E Builders, Inc. \$159,524.55 – Budgeted.
4. Transportation Advisory Board Minutes dated July 15, 2015 (acknowledgement only).

5. Parks Advisory Board Minutes dated June 17, 2015 and July 17, 2015 (acknowledgement only).
6. Estes Valley Planning Commission Minutes dated July 21, 2015 (acknowledgement only).

It was **moved and seconded** (Koenig/Phipps) **to accept the Consent Agenda**, and it passed unanimously.

2. **ACTION ITEMS:**

1. **ESTES VALLEY COMMUNITY GARDEN UPDATE AND REQUEST FOR FUNDING.** Connie Dedon provided an update on the progress of the Community Garden and requested the Town provide \$5,000 to assist with the water tap fee in order for construction to begin this fall. It was **moved and seconded** (Koenig/Ericson) **to provide \$5,000 to the Estes Valley Community Garden**, and it passed unanimously.
2. **ESTES PARK HOUSING AUTHORITY UPDATE AND REQUEST FOR FUNDING.** Director Kurelja updated the Board on status of the Falcon Ridge project, stating rental applications would be taken in September with the lease process beginning in October 2015. The first building should be ready for occupancy by January 2016 and the project should be completed by April 2016. Leasing preference would be given priority to those affected by the 2013 Flood and those who live within the Park R-3 School District boundaries. Two new staff members would be hired and the Estes Park Housing Authority (EPHA) anticipates full leasing by the summer of 2016.

Director Kurelja stated the EPHA is a tax exempt organization, but for the purposes of the Tax Credit partner, a single purpose partnership entity, Falcon Ridge LLLP was formed. Previously the State recognized entities such as this as tax exempt. With turnover of staff at the State level, the interpretation has changed and the State no longer considers such entities to be tax exempt. Director Kurelja requested the Town rebate the approximate \$169,000 Town sales tax spent on materials back to the Falcon Ridge project. It was **moved and seconded** (Norris/Holcomb) **to rebate the applicable sales taxes for Falcon Ridge based on Town Attorney White's advice on whether the 1A Sales Tax is applicable for the rebate***, and it passed unanimously.

*The Town will reimburse the Estes Park Housing Authority for all Town sales tax paid by the Estes Park Housing Authority, and subsequently collected by the Town, in regard to the construction project at Falcon Ridge, contingent on the opinion of the Town Attorney regarding reimbursement of the 1A portion of the Town sales tax.

EPHA Board Chairperson Eric Blackhurst provided the history of housing studies conducted in the Estes Valley and stated EPHA intends to reduce their Town funding request in 2016 to \$50,000. A Request for Proposals for a community wide Housing Needs Assessment was sent out for bids and three proposals were received. EPHA chose Rees Consulting, Inc., who completed the 2008 housing study. The cost would be \$66,000 and EPHA requested the Town to contribute \$33,000. The Board inquired why a new study needs to be conducted since it is obvious the Town is in great need of attainable housing. Blackhurst described how lenders need to see the need based on current data. After further discussion, no formal action was taken on the Estes Park Housing Authority's Request for Funding. The consensus of the Board was to continue the discussion during the 2016 Budget Study Session.

There being no further business, Mayor Pinkham adjourned the meeting at 9:16 p.m.

William C. Pinkham, Mayor

Barbara Jo Limmiatis, Recording Secretary

DRAFT

RECORD OF PROCEEDINGS

Town of Estes Park, Larimer County, Colorado August 25, 2015

Minutes of a Study Session meeting of the **TOWN BOARD** of the Town of Estes Park, Larimer County, Colorado. Meeting held at Town Hall in Rooms 202/203 in said Town of Estes Park on the 25th day of August, 2015.

Board: Mayor Pinkham, Mayor Pro Tem Koenig, Trustees Ericson, Holcomb, Nelson, Norris and Phipps

Attending: All

Also Attending: Town Administrator Lancaster, Assistant Town Administrator Machalek, Town Attorney White, Manager Ash, Planner Kleisler and Town Clerk Williamson

Absent: None

Mayor Pinkham called the meeting to order at 4:30 p.m.

FALL RIVER TRAIL ALIGNMENT AND DESIGN.

Engineering Manager Ash stated the Town received a Paul S. Sarbenes Transit in Parks Program grant in the amount of \$337,000 to fund the design and environmental assessment work needed to extend the Fall River Trail to Rocky Mountain National Park. The grant application specified the trail would provide expanded access by constructing pedestrian and bicycle enhancements adjacent to Hwy 34. Staff has confirmed FTA would be receptive to alternative routes if supported by the categorical exclusion environmental evaluation.

Scott Belonger/Loris and Associates reviewed the two alternative trail alignments for the westerly 1.5 miles of the trail: 1) following south edge of Fall River Road and terminating at the Fall River Visitor Center; and 2) south side of Fish Hatchery Road and a gravel service road terminating at the Rocky Mountain National Park boundary near the Aspen Glen campground. The trail alignments would stay within the current rights-of-way. Both alternatives have been presented in three public outreach meetings.

The two alignments were assessed using a matrix with six evaluation criteria: safety, user experience, environmental impact, resident/privacy concerns, connectivity/efficiency and cost. Trails are built with three types of construction – Type I – easy to construct and adequate spacing between the trail and the roadway; Type 2 – moderate to construct and reduced spacing between the trail and roadway; and Type 3 – difficult to construction with little to no spacing between the trail and roadway.

The Fall River Road alignment would require a significant portion of the trail to be built attached to the roadway, Type III, with no separation and walls to deal with the slope, at a cost of \$1,000 a foot or \$4.3 million. The Fish Hatchery Road would contain little to no Type III construction and would be significantly less expensive to construct at approximately \$1.6 million. The Fish Hatchery Road alignment would be a safer corridor for pedestrians and bicycles providing a better user experience. Public comment was collected during the public meetings and concern was raised by property owners along Fish Hatchery Road over privacy and by accommodation owners over the removal of trees along the trail corridor. Staff stated snowplowing could be an issue for the Fall River Road alignment.

Town Board comments and questions were heard and have been summarized: concern was raised regarding the Fish Hatchery alignment as the Town does not know

Town Board Study Session – August 25, 2015 – Page 2

the future for the property south of the hydro plant; questioned if the Park had a preference on the alignment; and had the Land Trust been contacted to determine their preference.

Staff stated the Fish Hatchery alignment would not impact the future development of the Town owned property. The Park would favor a connection to the campground to improve the visitor experience. The Land Trust had not been contacted. The project once fully designed would be a shovel ready project that would compete favorably for GOCO grant funds and Open Land funds, with the 1A sales tax funds to be used for grant matching.

The Board consensus was to move forward with the final design of the trail along Fish Hatchery Road.

REVIEW OF DRAFT RECOMMENDATION FOR VACATION RENTALS.

Planner Kleisler provided an update on the project to review the regulations for vacation home rentals. The Town hosted a public forum in May to hear from the community, over 90 attended. Staff has worked to refine the public policy options and presented items for the Board's review and comment. With Board comments, staff would hold a second public forum on September 11, 2015 to receive input from the community.

Fee Structure

The Town Clerk's office conducted a fee structure analysis and recommended a tiered fee structure, both within Town and the Estes Valley. The analysis included a review of the CAST report and specific benchmarking against Steamboat Springs and Breckenridge, who has a high license compliance rate. The base fee of \$150 would include the first bedroom and a \$50 fee per each additional bedroom would be collected. A homeowner renting out a single room such as an AirBnB would have a fee of \$50. The fee would cover administrative costs and code compliance. A Code Compliance Officer would be hired seasonally to address increased code compliance issues during the summer season.

Board comments: Questioned if the County Commissioners were on board with the new fee structure. All costs related to vacation homes need to be reviewed to ensure the costs are recouped through the licensing process, i.e. Police services.

Occupancy

A common theme in the public forum was to preserve residential neighborhood character, yet another popular (yet competing) concept was increasing the occupancy limit in rentals. In an attempt to achieve a balanced approach, staff recommends the Trustees consider requiring a Conditional Use Permit when the occupancy is above the current limit of eight (8) people. This concept would allow the Estes Valley Planning Commission (EVPC) to review and neighbors to comment on some rental operations, while still allowing potentially rental to larger parties. Staff also reviewed the possibility of utilizing lot size to allow more occupancy.

Board comments: The Board consensus was to not move forward with the lot size to determine occupancy; questioned the criteria to be used by the EVPC in determining the approval or denial of a Conditional Use Permit; the permit would be a good option as long as clear criteria can be developed; Trustee Holcomb would support 2 people per bedroom, plus 2 with no limit (Trustee Nelson and Mayor Pro Tem Koenig agreed); a level playing field has been the objective while protecting the neighborhoods and addressing items such as the fire code; a clear definition of residential versus commercial use should be developed; there are homes that can accommodate larger family reunions that are not being utilized due to the limit and the parties must utilize the YMCA or not come to Estes Park; the family character of Estes Park should be considered; requested staff provide information on what qualifies as a small hotel and what triggers a Fire Marshall review of a use; and the Board discussed what should the upper limit be and when should a Special Review be initiated.

Town Board Study Session – August 25, 2015 – Page 3

Staff questioned having no limit on occupancy and questioned when a home becomes a hotel in a residential neighborhood. The Board could set a cap on the number of people.

Residential Character

Concerns were expressed during the public forum about the need to ensure vacation rentals do not erode residential neighborhood character. Some communities have limited the number of rentals in a given area. In Durango only one vacation rental may be permitted on a street segment, and additional homes that wish to operate on that street must obtain a Conditional Use Permit. Staff recommended establishing a limit on the number of vacation rentals per street segment or within a given radius, with additional rentals within that area requiring a Conditional Use Permit. Conditional Use Permits have similar review standards to that of a Special Review.

Attorney White stated any new regulations on the number of vacation homes would affect new licenses. Currently licensed homes would be grandfathered.

AirBnB Option

The website www.AirBnb.com has risen in popularity over the years in part by facilitating the rental of single rooms on a short-term basis while the owner remains in the house. The current regulations prohibit this use, which has created a small underground market. Staff recommended the use be permitted in smaller homes, in essence creating a “mini-bed and breakfast” use. There would be less concern with these rentals as the owner would be onsite.

Board comments: no concerns with a single room in a dwelling; questioned how allowing these units would affect the accessory dwelling unit discussion; and should be regulated to be fair to the B&Bs in town.

Notices

Another popular theme during the public forum was better communication with neighboring properties. Staff recommended establishing some level of communication through mailings and a Town-maintained webmap. Concern has been raised by the property owners and the Police department that the use of a webmap may advertise the possibility of a vacate home. The notification would be a 5 home radius around the vacation rental delivered by the property owner, local contact or property manager. Additional information would be posted within the home such as the business license.

The Board commented the use of property manager as a term continues to be confusing and would suggest the use of local contact.

AUDIT COMMITTEE STRUCTURE.

The Audit Committee was formed by the adoption of Policy Directive 01-03 which provided the Mayor the authority to appoint two representatives from the Town Board, Finance Officer, Assistant Town Administrator and Town Administrator to the committee. The Town’s auditors and the Audit Committee agreed the committee structure should be updated to remove staff from the committee, as the audit process is to audit staff for compliance with established regulations and procedures. Staff would recommend the removal of staff as voting members on the committee, add a third Board member, change the committee to a Standing Committee, and clarify terms for members as two-years. Meetings would be held in the Board Room as needed, recorded and official minutes posted on the Town’s website. The Board requested the item be brought forward for consideration at an upcoming Town Board meeting.

TRUSTEE & ADMINISTRATOR COMMENTS & QUESTIONS.

The Board requested staff bring forward a review of Town Board salaries to the budget meetings in October. Any potential increase would need to be approved prior to the April Municipal Election and would only apply to newly elected Board members.

RECORD OF PROCEEDINGS

Town Board Study Session – August 25, 2015 – Page 4

Administrator Lancaster stated staff has been working with Visit Estes Park on a service level agreement. Through the review it was determined the Intergovernmental Agreement between the Town and Visit Estes Park should be reviewed. Administrator Lancaster, Trustee Liaison Norris and Mayor Pro Tem Koenig would meet with Visit Estes Park staff and Board members to discuss the agreement.

Administrator Lancaster commented the Town would move ahead with the Housing Authority to review options for the Fish Hatchery property located on the eastern portion of the property. The concept would include a development with a private developer to place workforce housing on the property consisting of single-family deed restricted homes. The Town would request three houses be reserved for Town employees.

Staff discussions with CDOT regarding the replacement of the banner at highway 34/36 intersection with a variable sign have been positive. The cost of a new sign could be paid for with the proceeds from the selling the property located on Old Ranger Road.

Mayor Pinkham commented the Town continues to have difficulty in attracting applicants for the Park Advisory Board. In the past qualified individuals were not appointed, and therefore, individuals are not applying for the position. Mayor Pinkham stated there is a procedure for interviews and all candidates should be treated equal.

FUTURE STUDY SESSION AGENDA ITEMS.

The Board requested the final review of 2016 Strategic Plan for September 8, 2015. Trustee Ericson requested an update on the status of the Event Center financing at the September 8, 2015 meeting. The Board approved the process for interviewing for Boards and Commissions be added to the list of items to be scheduled.

There being no further business, Mayor Pinkham adjourned the meeting at 6:40 p.m.

Jackie Williamson, Town Clerk

RECORD OF PROCEEDINGS

Town of Estes Park, Larimer County, Colorado, August 27, 2015

Minutes of a Regular meeting of the **COMMUNITY DEVELOPMENT / COMMUNITY SERVICES COMMITTEE** of the Town of Estes Park, Larimer County, Colorado. Meeting held in Town Hall in said Town of Estes Park on the 27th day of August, 2015.

Committee: Chair Ericson, Trustees Holcomb and Phipps
Absent: Trustee Phipps
Also Attending: Town Administrator Lancaster, Directors Chilcott, Winslow and Fortini, Manager Mitchell, Coordinators Jacobson and Wells, and Recording Secretary Limmiatis

Trustee Ericson called the meeting to order at 8:00 a.m.

PUBLIC COMMENT.

None.

COMMUNITY DEVELOPMENT DEPARTMENT.

REPORTS.

Reports provided for informational purposes and made a part of the proceedings.

- Verbal Updates and Committee Questions – Director Chilcott updated the Committee on the Downtown Plan consultant interview process, an upcoming public meeting regarding vacation home regulations, the high volume of building inspections being completed daily, staffing and the construction status of Falcon Ridge.

COMMUNITY SERVICES DEPARTMENT.

SURPRISE SIDEWALK SALE RESOLUTION.

Director Winslow requested the approval of the bi-annual Surprise Sidewalk Sale to take place on October 10 and 11, 2015. The event allows downtown merchants to place wares and signage on the sidewalk as long as a four foot clearance is maintained. Any business not located within the downtown district may reserve a space in Bond Park to participate in the event. **The Committee recommended the approval of the Surprise Sidewalk Sale Resolution to be included on the consent agenda at the September 8, 2015, Town Board meeting.**

REPORTS.

Reports provided for informational purposes and made a part of the proceedings.

- Shuttle Report – Shuttle Coordinator Wells provided updated ridership counts for the summer shuttle season and stated ridership should be equivalent to the 2014 season. The countdown to 500,000 passengers has begun with approximately 2,000 remaining. The Mayor is on call to present the rider with a gift bag containing several prizes from the Town, Shuttle Committee and local merchants. On September 2, 2015 the Visitor Center would host an open house in celebration of the 10th Shuttle Season as Ridership Appreciation Day. The Committee inquired about the potential of year round shuttle operation. Coordinator Wells stated many grants are available each year, but further research needs to be conducted to evaluate the community's needs.
- Event Report – Coordinator Jacobson described the successes seen by the Movie in the Mountains series and the Estes Park Wine Festival. Administrator Lancaster shared feedback regarding the Wine Festival's inability for reentry and access to food vendors. Coordinator Jacobson would report the feedback to the promoter who continues to work on improving the event for next year.

RECORD OF PROCEEDINGS

Community Development / Community Services – August 27, 2015 – Page 2

- Verbal Updates and Committee Questions – Director Fortini informed the Committee of the progress of the Museum Master Plan. Manager Mitchell invited the Committee and public to attend a Grand Friends Event at the Senior Center on August 29, 2015, stated the Senior Center had the highest attendance on record during June and July, and provided an update on the progress of the Community Center. The Committee thanked Director Winslow for his years of service with the Town and wished him the best in his future endeavors.

There being no further business, Trustee Ericson adjourned the meeting at 9:27 a.m.

Barbara Jo Limmiatis, Recording Secretary

RESOLUTION NO. 14-15

WHEREAS, on July 23, 1991, the Board of Trustees adopted Ordinance 15-91 pertaining to "containment" within the CD District, and subsequent adoption of the Estes Valley Development Code (Chapter 4, Zoning Districts, specifically paragraph a. Outdoor Sales, Use, Storage and Activity in the CD Zoning District, Number (3) Exceptions),

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

That the following guidelines shall be adopted for the "Surprise Sidewalk Sale Days" being sponsored by the Community Services Department, Events Division scheduled for October 10-11, 2015:

1. Hours of operation shall be from 9:00 a.m. – 5:30 p.m.
2. The Sale Weekend is available to all Estes Park businesses.
3. The Sale Weekend will be held rain or shine.
4. Business will be allowed to sell merchandise in front of its store only during the hours specified above.
5. Sidewalk displays, including signage, shall provide a minimum clearance of four feet for pedestrian walkways and handicapped accessibility. Displays and/or merchandise will not be allowed in any street.
6. Those merchants without sidewalk frontage may contact the Events Division at 5876-6104 to reserve a space in Bond Park (10x10 space only).
7. Advertising posters will be provided.
8. Each participating business must possess a current Town Business license.

BE IT FURTHER RESOLVED, that every business is urged to participate in this Surprise Sidewalk Sale Days annual event.

DATED this _____ day of _____, 2015.

TOWN OF ESTES PARK

Mayor

ATTEST:

Town Clerk

**Estes Park Board of Appeals
August 6, 2015
Board Room, Estes Park Town Hall**

Commission: Brad Klein, John Spooner, Joe Calvin, Don Darling, Tony Schiaffo

Attending: Chair Spooner, Members Klein, Calvin, Darling

Also Attending: Chief Building Official Will Birchfield, Building Inspector Claude Traufeld, Senior Building Permit Technician Charlie Phillips, Recording Secretary Karen Thompson, Fire Marshall Marc Robinson

Absent: Member Schiaffo

The following minutes reflect the order of the agenda and not necessarily the chronological sequence. There were no members of the public in the audience.

Chair Spooner opened the meeting, stating this meeting would be a review of the International Property Maintenance Code (IPMC). This code has not been part of the adopted codes, and is being reviewed for possible adoption for the first time this year.

CONSENT AGENDA

Minutes from July 2, 2015 Board of Appeals meeting.

It was moved and seconded (Calvin/Darling) to approve the minutes as presented and the motion passed unanimously with one absent.

2015 INTERNATIONAL PROPERTY MAINTENANCE CODE (IPMC)

Prior to the International Building Codes, the Town adopted the Uniform Building Codes, which included the Uniform Code for the Abatement of Dangerous Buildings. This code was rarely used. CBO Birchfield gave a brief history of the Building Codes and when other codes were brought in to the Town, including but not limited to the Energy and Fire Codes. He stated both the Uniform Code for the Abatement for Dangerous Buildings and the International Property Maintenance Code were written to address hazardous conditions in buildings. Currently, CBO Birchfield is not authorized to act unless the building is in imminent danger of collapse or other dangers deemed dangerous for public safety and welfare. The IPMC is a companion code to the Fire Code. For the most part, it is the building code that determines whether automatic sprinklers or fire alarm/suppression systems are required. There are times the developers choose to sprinkle so they can increase the size of the building or add an additional floor. As an example, CBO Birchfield explained a building could be built larger than normal if a sprinkler system was installed. The sprinkler system would require proper maintenance, which is where the IPMC would come into effect. Another example would be an existing building that is not undergoing any construction, but should have done work to make the building safe. The IPMC would allow the Division of Building Safety to inspect the building and require the needed maintenance. The IPMC is used to ensure the building is being maintained, including but not limited to fuel gas appliances that may be malfunctioning. The IPMC could require property owners to replace dangerous appliances.

Estes Park Board of Appeals

August 6, 2015

Board Room, Estes Park Town Hall

In larger jurisdictions, a code like this is used to inspect all residential rental properties (AKA the Anti-Slum Code). Some have a regular inspection program. Other jurisdictions base their inspections on complaints. It would be his recommendation that if the elected officials decide to adopt this code, it would be based upon complaints. CBO Birchfield stated it should be noted that staff is authorized to initiate a complaint. He explained the importance of exhausting all options before condemning a building. Hopefully the property owner would be cooperative. A letter from an engineer stating the building was stable may be required. CBO Birchfield clarified the IPMC deals with safety of walls, foundations, equipment, etc. Mold is not addressed in the IPMC.

CBO Birchfield stated if the Board of Appeals is considering recommending adopting the IPMC, details would be provided to the elected officials. Chair Spooner stated he had a conversation with a local designer who has a significant list of issues concerning the IPMC.

CBO Birchfield stated if the Town Board is considering adopting the IPMC, a copy of the code would be available in the Division of Building Safety and the Library as reference materials. The goal is for the Board of Appeals to make a recommendation at today's meeting as to whether or not to proceed with adopting the IPMC. Additional public outreach would occur if the Town Board directs staff to proceed. The Town Board will need to provide direction as to any limitations on the adoption of the IPMC. CBO Birchfield suggested, if the Town Board wishes to pursue adoption, having the IPMC issues be complaint based, excluding one- and two-family dwellings, and excluding all perimeter issues (e.g. outside rubbish, etc.). He stated the public needs to understand the scope of the code. The Town is empowered by the State to protect the public (adoption of building codes). By allowing that empowerment, staff does not have the authority to violate the constitutional rights of property owners. It's about voluntary consent unless the situation is very bad, and then he would have to get a warrant from the court. A lot of times, people really do not understand how complicated and sensitive the systems are and do not know the consequences of not maintaining them.

There was brief discussion concerning the adoption of the Fire Code a few years ago. CBO Birchfield stated there was both support and opposition to the adoption of that code. It was important to find out from the public what their concerns were and do their best to address their concerns. If there were concerns that were not resolved, the Town Board was aware of the concerns and the reasons behind them. He stated the codes are adopted by the elected officials, and staff administers it. It is a community decision, and he hopes the community will provide comment.

CBO Birchfield stated the Constitutional language is very strong about search and seizure concerning single-family homes. That is the basis for recommending removal of residential one- and two-family homes from the IPMC. The commercial codes are different in that they are public buildings. He stated it is very important to ensure property rights will not be violated. If there is reason to believe the building is dangerous, the IPMC would allow him to investigate, with the owner's permission. He stated he is more comfortable recommending adoption of this code than he is doing business without it, and it does provide some guidance. CBO Birchfield added a multi-family building is different than a one- or two-family buildings. What one person does in one unit of a multi-family building put all others in the building at risk.

Estes Park Board of Appeals

August 6, 2015

Board Room, Estes Park Town Hall

CBO Birchfield reminded the Board that the elected officials set the philosophy for Town staff concerning enforcement, public safety, etc. If it is in the code, the CBO is empowered and directed to enforce the provisions. If you do not want it to be done, it needs to be removed via a local amendment. If a decision by the Building Official is appealed, all of the building code requirements up to that point on are hold until the appeal is heard by the Board of Appeals. CBO Birchfield reiterated the importance of obtaining permission from the property owner or having a judicial warrant before inspecting a property for compliance.

Comments concerning the IPMC included but were not limited to: recommended removing the portion of the code concerning weeds, junk vehicles, rodents, etc. that are already covered in our development and municipal codes; the square footage sizes in Table 404.5 seems to be rather large for today's trends; this is a maintenance code, not a building code; one of the purposes of this code is to try to keep too many people from sleeping in one space, for life safety reasons; if we decide to move forward, it would be recommended to remove portions agreed upon by the Board; the State electrical inspector enforces State regulations as well being authorized to assist the Town with electrical requirements in the municipal code; the majority of the time, property owners do not intentionally let things degrade to where they become unsafe, they just do not realize the complexity of some of the systems; the IPMC would be worth adopting in some reduced form; if a notice of violation was issued and the property owner appealed, the case would be heard by the Board of Appeals; this code would not be used very often, and there is nothing CBO Birchfield would add at this time; the intent of the code is to protect the public, whether it is safe or not safe; there is at least one building downtown in danger of collapsing, and adopting this code would open the need for certain structural modifications; Estes Park has a large number of unstable buildings with zero lot lines, so structural engineers need to make sure everything is good all the way to the ground; if the structural engineer has concerns, they will want to bring in a soils engineer, and it could have the snowball effect.

CBO Birchfield stated in the Existing Building Code (IEBC), it is the responsibility of the designer to prove that the construction work you are doing has no negative effect on the existing structure where the loads are applied. In the remodel of a commercial building, it is the designer's responsibility to make sure that if the structure is altered in any way, it does not diminish the load bearing capacity of the existing building. The commercial code is different than the residential code; however, load bearing capacity is still reviewed in the alteration of residential structures.

CBO Birchfield stated life safety issues are much greater than structural issues in commercial buildings in Estes Park. The IPMC is designed for determining if it is dangerous or not, and if the public is or is not at risk. Between Inspector Traufield and CBO Birchfield are decades of experience and they can usually tell right away if things aren't right. If there is a complaint against a property owner, they would ask for permission to follow through with the complaint. It is not the intent of the code to go looking for things that are not right in buildings. He stated even without the IPMC, staff feels an obligation to investigate complaints. Currently, it depends on how serious it is. If is not an issue where the public is in imminent danger, staff is not authorized to require corrections be made. Staff could

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notify the property owner about what the danger is, but could not require the property owner to take action. If the IPMC is adopted, staff could take action (utility shut off, stop work order, etc.).

Fire Marshall Marc Robinson stated he was supportive of adopting the IPMC. Every day he sees what is being discussed today. On average, he inspects potential violations about five times per week. He stated there are a lot of buildings in the community that are extremely dangerous, and it is very important to have the ability to address serious safety concerns. He feels he has a responsibility to the community to make sure they are taken care of. Once he has educated the property owner as to why it isn't safe, 95 to 98% of the people are on board with making the necessary corrections. He is appreciative of the buy-in of the community with the Fire Code. People call him to ask for annual inspections, and thank him for pointing out potential problems. He stated the IPMC would give the community the authority to identify the unsafe situations and make them safe. The Estes Valley Development Code and the Estes Park Municipal Code take care of a lot of the exterior issues that could be deleted from the IPMC. He thinks the community would be supportive of a code that would ensure building safety. Some retroactive requirements in the Fire Code will be required to be addressed by 2016, and property owners are gearing up for that. Overall, property owners want to make sure their buildings are safe. CBO Birchfield stated he is not proposing annual inspections by the building official. However, if the Fire Marshall notices something during an annual inspection, it would be helpful for the building official to be able to use an adopted IPMC as a guide.

Inspector Claude Traufeld stated he came to Estes Park from a large municipality that had property maintenance codes. He stated he would not be driving around town looking for violations. That is not the intent of the IPMC, nor is it the culture of the Division of Building Safety. He stated if the IPMC was adopted, the benefits he thinks he will see are (1) If there was a condition where the reality is not as severe as perceived, and education made them aware, it would still be documented. As time goes by there would be documentation that could remediate some of the concerns; (2) as time goes by, he believes that the "opening of the can of worms" would lessen, creating a better environment for contractors in knowing what they are getting into with a job. A concern he would like the Board to convey to the Town Board is that there is already a municipal code that prohibits someone from picking on their neighbor by calling in multiple violations when there is no basis for the violations. There are some situations in Estes where that might apply. Through documentation, staff could show the complaints are not valid, and/or show that it is the same person complaining and if the IPMC was adopted, there would be provisions that would not allow harassment. He stated he would be willing to work with the property owner to come into compliance. Inspector Traufeld was supportive of the adoption of the IPMC.

CBO Birchfield explained how the process would work. Once a notice of violation and order to abate the violation was issued, a building permit would be required to remedy the situation. The building permit and subsequent inspections would be the tracking process to make sure the violation is abated. People have asked him why he hasn't done certain things concerning property maintenance, and he has had to tell them he does not have the authority.

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CBO Birchfield stated if the Board of Appeals decides to support the adoption of the IPMC, it is up to the Board to amend what they think should be amended. If adopted by the elected officials, the Building Official would be the person directed to administer the code. He stated staff works at the will of the elected officials. There was discussion among the Board about drafting proposed amendments. Comments included but were not limited to: The Town Board still needs to give clear direction as to whether or not to pursue the adoption of this code; the Board of Appeals members could recommend local amendments to this code; there has been enough conversation to know it is an important matter and thinks the Board needs to discuss it more before making a recommendation to the Town Board; when the IBC was adopted, the Uniform Code for Abatement of Dangerous Buildings was put on the back burner and the Town now has no authorization to act on anything; something of this nature is needed and the Board would like to review it in more depth and present their recommendations to the Board of Trustees; CBO Birchfield will present a statement of support to the elected officials from the Board of Appeals; if the elected officials were supportive of adopting the IPMC, public outreach by staff and the Board of Appeals would take place.

It was moved and seconded (Calvin/Klein) to direct CBO Birchfield to address the Town Board concerning the consideration of adopting the International Property Maintenance Code. General recommendations being considered for local amendments would be eliminating exterior property areas and excluding one- and two-family dwellings. Additional consideration and public outreach will be provided prior to the Board of Appeals making a formal recommendation for adoption.

End of discussion of IPMC.

REPORTS

CBO Birchfield stated the September meeting will be reviewing the International Fire Code. If time allows, we could work on other tabled items. He would recommend saving the IPMC for last, and would not hesitate to wait until 2016 to adopt it. The remaining codes (Fire, Energy, Existing Building) should be relatively easy to review. It may be necessary to hold additional meetings to allow the public the opportunity to learn more about the IPMC and provide comments. The process is more important than the deadline, and it is very important to make sure the integrity of the process is maintained. The public needs to be allowed the opportunity to be a part of the discussion.

CBO Birchfield read an email received from Larimer County CBO Eric Fried concerning wind and snow loads. Larimer County is leaning towards keeping the current wind and snow loads, and not adopting the three wind load maps based on risk category. He would like to harmonize the snow and wind loads across the Estes Valley. CBO Birchfield would support a snow load based on a formula where elevation is considered. Hopefully the Town and County could reach a compromise. Comments included but were not limited to: it makes sense to align the snow loads between Town and County, as it makes it easier for designers and architects; at the last Structural Engineers Association of Colorado (SEAC) meeting it was stated previous snow loads for mountain communities were a little high and snow loads for plains communities were a little low; 40 pounds per square foot (psf) would be acceptable to Chair Spooner; during the blizzard of 2003 there were no structural failures, and buildings were built to 40 psf; one Board member supported staying with the existing code, and using

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the table in the IBC with the ultimate wind speed; it is important to stay with what is written in the code to make the transition to the 2015 codes easier, especially for non-local designers.

CBO Birchfield reported the first draft of the Larimer County Building Code Local Amendments were distributed to the Board.

CBO Birchfield reported Community Development Director Alison Chilcott has directed a consultant to do a fee study. Additional information will be brought to the Board once it is received.

CBO Birchfield reported staff is having some issues with the Temporary Certificates of Occupancy (TCO) that have been issued. The work required to obtain the Certificate of Occupancy (CO) is not being completed. Effective immediately, an administrative policy has been put into place to allow TCOs be issued with one month expiration dates. This will allow staff to better track the outstanding TCOs, and encourage the contractors to get the required work completed, inspected, finalized, and the CO issued. When people do not voluntarily comply with the regulations (obtaining a CO) it takes a lot of staff time to follow up with these projects; thus, taking staff away from completing plan reviews, inspections, etc. that are in the queue. An added benefit will be the lesser effect on adjacent property owners having to deal with never-ending construction processes.

CBO Birchfield reported he will be recommending to the Town Board collecting a non-refundable deposit for plan reviews at the time of submittal. This will be presented with the new proposed fee schedule. The Division of Building Safety has one entire file drawer full of permits that have been reviewed by multiple departments and never picked up (or paid for) by the applicants.

CBO Birchfield reported staff is struggling with decisions concerning egress windows (emergency escape and rescue openings). The current code requires them to be no more than 44 inches off of the floor to the open area of the opening, certain widths, certain heights, must open directly to the outside, etc. Purpose of the size is to allow enough space for residents to get out and firefighters to get in and out wearing their full bunker gear. The issue at hand is when the Division of Building Safety receives applications for window replacements and staff determines none of the windows in the building are egress. CBO Birchfield explained where grandfathering comes into play, which would not require the property owner to increase the opening size to accept egress windows. If grandfathering is in place, the property owner is only required to maintain the building to the code that was in place at the time the building was built. Whenever you change code cycles, existing buildings do not have to bring their buildings up to code, with the exception of smoke alarms. If you're doing electrical work during a remodel, you are required to hard-wire the smoke alarms. Addressing is also retroactive. The issue is there are buildings in town that were permitted many years ago, but the windows were never large enough from the start. The current owner hasn't planned on making structural changes, and only wants to replace windows size for size. This is a very complicated issue for something that looks simple on the surface. Egress windows are proven to save lives. CBO Birchfield stated he was not looking for a decision, but requesting feedback as to how to address this issue. Fire Marshall Robinson stated smoke alarms are by far the most important thing to have to get you up and out of the house. There was discussion among the Board concerning this issue. CBO Birchfield stated according to the

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building codes, any time the building official gives approval for something that does not meet code, that approval is invalid. When the inspector signed off on the inspection record card, his signature was invalid. It was the responsibility of the designer, builder, and building inspector to make sure those windows were the right size, and all three of them missed it. It makes it very difficult for CBO Birchfield to make a decision. He asked the Board to think about this and provide some direction at a future meeting.

There being no further business, the meeting was adjourned at 6:03 p.m.

John Spooner, Chair

Karen Thompson, Recording Secretary

RECORD OF PROCEEDINGS

Special Meeting of the Estes Valley Board of Adjustment

July 28, 2015, 2015 9:00 a.m.

Board Room, Estes Park Town Hall

Board: Chair Pete Smith, Vice-Chair Don Darling, Members Wayne Newsom, John Lynch, and Jeff Moreau

Attending: Chair Smith, Members Darling, Lynch, Newsom and Moreau

Also Attending: Planner Kleisler, Recording Secretary Thompson

Absent: None

Chair Smith called the special meeting to order at 2:00 p.m. There were two people in attendance. He introduced the Board members and staff.

The following minutes reflect the order of the agenda and not necessarily the chronological sequence.

1. PUBLIC COMMENT

None.

2. CONSENT AGENDA

Approval of minutes from the June 2, 2015 meeting

It was moved and seconded (Lynch/Newsom) to approve the Consent Agenda as presented and the motion passed unanimously.

3. METES & BOUNDS PARCEL LOCATED AT 1740 HUMMINGBIRD LANE

Planner Kleisler reviewed the staff report. The request is for a variance from Estes Valley Development Code Section 4.3, Table 4-2 to allow encroachment 21 feet into the side setback to allow an existing cabin footprint and foundation to remain after unpermitted removal of the existing dwelling during construction of a permitted addition. Due to the size of the lot and the zone district, the entire lot is considered in the setback.

In November, 2014, the property owner received a variance for a 580 square foot addition. During construction of the addition, the contractor began demolishing the principal structure. Because this was unpermitted work, the Larimer County Building Department issued a Stop Work Order, and the applicant was required to pull a Demo Permit. Given the extent of the demolition, Town staff determined that an additional variance was needed to reconstruct the principal house in the same location.

The home was originally constructed in 1935, and was considered legally nonconforming. The size of the lot is significantly sub-sized for the zone district, and the setbacks actually overlap, making the entire lot in the setback.

Planner Kleisler stated the application was routed to affected agencies and adjacent property owners. Additionally, a legal notice was published in the local newspaper. One public comment was received from the adjacent property owner to the west, who was concerned about the existing septic system and the possibility of a sewer easement across his property should the septic fail and the property owner at the subject address be required to hook up to the sewer system. Several Board members commented that would be an issue for the Larimer County Health Department, and was not in the purview of the Board of Adjustment.

Planner Kleisler explained a condition of approval limiting the re-built structure to one story. He stated when a structure is destroyed (by ways other than demolition), the property owner has one year to rebuild in the same footprint with the same character. Staff is treating this rebuild the same; therefore, staff is recommending the dwelling be limited to one story.

Staff Findings

1. The lot is significantly sub-sized for the E-1–*Estate* zone district, which has a minimum lot size of one acre. This parcel is 0.26 acres, comparable to lots in the R–*Residential* zone district. Lots in the R–*Residential* zone district have ten foot setbacks. If zoned appropriately, the project would comply with ten foot setbacks, and not require a variance. The house was located legally at the time it was built.
2. In determining “practical difficulty”, staff found:
 - a. The applicant must receive a variance to re-establish a residential use of the property.
 - b. The variance is not substantial. The footprint of the original house is not expanding.
 - c. The essential character of the neighborhood would not be substantially altered with the approval of this variance. The proposed addition is generally consistent with the size and character of surrounding homes.
 - d. Affected agencies expressed no concerns relating to public services for this variance.
 - e. According to the Larimer County Tax Assessor, the applicant purchased the home in 2005, after the adoption of the current setback standards.
 - f. When asked by staff, the applicant’s Architect expressed practical concerns with moving the footprint of the former principal structure towards the center of the lot. The main concern expressed during that time centered on the functionality of the floor plan layout. Regardless of location any structure will be entirely nonconforming to setback standards; therefore, it is impossible to build

or expand a structure without a variance. The only other options for the Applicant are to (1) purchase an adjacent property, combine both lots and rebuild to meet setbacks; or (2) rezone the property to a district with less restrictive setback standards.

3. The conditions as submitted in this variance petition are not general or recurrent in nature.
4. The variance, if granted, will not reduce the size of the lot.
5. Staff finds the variance represents the least deviation from the regulations that will afford relief.
6. Residential uses are permitted in the E-1–*Estate* zone district.
7. Should the variance be obtained, staff recommends that a registered land surveyor verify building placement.

Planner Kleisler stated staff recommended approval of the variance request, with the following conditions listed below.

Public Comment

Paul McKinley/applicant stated the existing deck and outbuilding were removed for the new addition. Things got carried away, and the home was demolished. Member Moreau questioned the possibility of moving the foundation to come more into compliance with the zone district. Mr. McKinley stated they were planning to use the existing foundation for the rebuild. Member Moreau inquired about whether or not the applicant received the appropriate permits from Larimer County to demo the building, including but not limited to permits required by the state (asbestos). He explained the demolition permit process, which is quite lengthy and expensive if asbestos is present. The applicant stated he was not aware of receiving those permits. Mr. McKinley stated the permit for the addition included replacing the roof. Member Darling inquired as to whether or not the permit pack for the addition was on site when the walls were removed. The applicant stated the permit pack was on site, and once the walls came down, he thought it may help his case to leave the one remaining wall. He stated the architectural plans will remain the same as the dwelling that was destroyed, with the walls shown as new. The one remaining wall will be removed. The applicant stated he has a valid business license in Larimer County.

Conditions of Approval

1. Full compliance with applicable building code, approved site plan, and building plans.
2. The proposed structure shall not extend beyond the original footprint and shall remain a single story.
3. Prior to pouring foundation, the applicant shall submit a setback certificate prepared by a registered land surveyor.

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It was moved and seconded (Moreau/Darling) to approve the variance request with the findings and conditions recommended by staff and the motion passed unanimously.

4. REPORTS

Planner Kleisler stated there will be no August meeting.

Planner Kleisler stated the Estes Park Transit Facility & Parking Structure is schedule to be heard by the Planning Commission in August. If approved at that meeting, it would come to the Board of Adjustment in September.

There being no other business before Board, the meeting was adjourned at 2:25 p.m.

Pete Smith, Chair

Karen Thompson, Recording Secretary



Memo

To: Honorable Mayor Pinkham
Board of Trustees
Town Administrator Lancaster

From: Wes Kufeld, Chief of Police

Date: September 8th, 2015

RE: Adoption of Final Ordinance #12-15 - Municipal Code Chapter 7.20
WILDLIFE PROTECTION

Objective:

Presenting in final format the Wildlife Protection Ordinance, Chapter 7.20 to Town Board and Citizens of Estes Park. Conduct a public hearing to receive any Town Board and public comments and/or recommendations before final adoption of the ordinance.

Present Situation:

As requested by Town Board, staff is presenting the final - Wildlife Protection Ordinance based on the recommendations presented to the board and the public on August 11th, 2015. The ordinance was amended to reflect those recommendations in the final document.

Advantages:

- Adoption of the final ordinance enhances a heightened level of public and wildlife safety within the Town Limits of Estes Park.
- Adoption leads towards effective enforcement of the code, supported by on-going educational efforts, community and Town Board involvement.

Disadvantages:

- None

Action Recommended:

Conduct a public hearing on the adoption of ordinance #12-15 for any public or Town Board comment.

Budget:

None

Level of Public Interest

High public interest

Motion:

Staff moves for adoption of Ordinance #12-15 / Wildlife Protection Ordinance 7.20

Attachments:

Wildlife Protection – Chapter 7.20 - Exhibit A

WILDLIFE PROTECTION

CHAPTER 7.20

7.20.010

In this Chapter, the following words and phrases have the following meanings:

(a) **Wildlife** means any undomesticated animal, including, but not limited to, birds, elk, deer, bighorn sheep, lynx, skunks, magpies, crows, bears, raccoons, coyotes, beavers, porcupines, mountain lions, bobcats and foxes.

(b) **Refuse** means any waste that could reasonably attract wildlife including, but not limited to, kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings, oil and grease. Refuse shall not include glass, paper, cardboard, metal, plastic, aluminum, textiles, electronics, non-edible yard maintenance waste, construction materials and household items when not commingled with food waste attractants.

(c) **Wildlife Resistant Container** means a fully enclosed container constructed of pliable materials and reinforced to deter access by wildlife.

(d) **Wildlife Resistant Enclosure** means an enclosed structure consisting of four (4) sides and a secure door or cover, which shall have a latching device of sufficient design and strength to prevent access by wildlife.

(e) **Hard-sided Container** means a container constructed using materials such as polycarbonate, ABS plastic, carbon fiber, wood or aluminum with a lid preventing wildlife from accessing the interior of the container.

(f) **Enclosed Structure** means a residential building, commercial building, accessory dwelling unit, garage or shed. Enclosed Structure shall not include a patio, deck, driveway, or other area located outside of the walls of a residential building, commercial building, shed, garage or accessory dwelling unit.

7.20.020

Standards for Wildlife Resistant Containers & Hard-Sided Containers

(a) Wildlife Resistant Containers shall meet the following standards:

(1) Containers shall be of a design that is impervious to wildlife, with drain holes no greater than one (1) inch in diameter.

- (2) Container lids shall have a closure mechanism and/or a latching device such as cables, bars, and/or pull handles that prevents opening by wildlife. All lids shall also:
 - (i) fully enclose (cover) the container opening.
 - (ii) have edges that fit flush.
 - (iii) shall not be turned up or bent.
 - (iv) shall remain closed when on their side or upside down.
 - (v) latching devices shall lock into place with a pin or other mechanism.
- (3) Wildlife Resistant Containers shall meet the standards of testing by the Living with Wildlife Foundation and a “passing” rating by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 60 minutes.

(b) Hard-Sided Containers shall meet the following standards:

- (1) Container lids shall have latching devices to prevent access by wildlife.

7.20.030

Maintenance and operation of Wildlife Resistant Containers, Wildlife Resistant Enclosures, and Hard-Sided Containers.

- (a) Wildlife Resistant Containers, Wildlife Resistant Enclosures, and Hard-Sided Containers shall be kept closed and secure when refuse is deposited.
- (b) If a Wildlife Resistant Container, Wildlife Resistant Enclosure or Hard-Sided Container is damaged and allows access by wildlife, repairs shall be made within seventy-two (72) hours after the damage.

7.20.040

Residential refuse disposal and curbside pick-up.

- (a) All refuse located outside an Enclosed Structure shall be contained in a Wildlife Resistant Container or a Wildlife Resistant Enclosure. Multi-family housing developments and other types of clustered residential housing utilizing centralized refuse containers shall use a Wildlife Resistant Container or a Wildlife Resistant Enclosure for all refuse.
- (b) Residents with curbside pick-up shall place refuse in a Wildlife Resistant Container or a Hard-Sided Container at or adjacent to the curb, alley, or public right of way for pick-up. If a Hard-Sided Container is used rather than a Wildlife Resistant Container, the Hard-Sided Container shall be placed at or adjacent to the curb, alley or public right-of-way, no earlier than 6:00 a.m. on the day of scheduled pick-up and removed prior to 7:00 p.m. on the same day from the area of the curb, alley or public right-of-way. Residents using a Wildlife Resistant Container

may place and leave the Wildlife Resistant Container at or adjacent to the curb, alley or public right-of-way without restriction.

7.20.050

Construction site refuse disposal.

All food packaging refuse shall be deposited in a Wildlife Resistant Container. Construction materials are not required to deposit in a Wildlife Resistant Container or Enclosure.

7.20.060

Commercial Refuse Disposal.

(a) All refuse located outside an Enclosed Structure from commercial establishments and vacation rentals shall be deposited in Wildlife Resistant Containers or Wildlife Resistant Enclosures. This requirement shall not apply to containers 95-gallons or less which are emptied by 10 p.m. each day or are under contract for removal overnight.

(b) Food service establishments shall deposit all oil and grease from their operations within Wildlife Resistant Containers or Wildlife Resistant Enclosures.

7.20.070

Trash Compactors.

Trash compactors are compliant with this Chapter when no refuse is exposed. Compactor doors must be kept closed at all times, except when loading or removing refuse and the area around the compactor must be kept clean of refuse and debris.

7.20.080

Bird feeders.

Bird feeders are allowed. However, between April 1 and December 1 of each year, all bird feeders must be suspended on a cable or other device so that they are inaccessible to bears.

7.20.090

Violation.

(a) Violation of any provision of this Chapter shall be unlawful and subject to the General Penalty provision of the Estes Park Town Municipal Code. The owner and/or the occupant of a residence or commercial establishment may be held responsible for a violation of any provision of this Chapter.

7.20.100

Compliance Required and Time Period.

Any container or enclosure containing refuse shall be brought into conformity with the provision of this Chapter by April 1st, 2016. Upon application to the Town Administrator, and a showing of hardship by an owner and/or occupant of an enclosure or container required hereunder, the Town Administrator may grant an extension, for a reasonable period of time, with which to comply with the provision of this Chapter.

ORDINANCE NO. 12-15

**AN ORDINANCE AMENDING THE
ESTES PARK MUNICIPAL CODE
CHAPTER 7.20 WILDLIFE ORDINANCE**

WHEREAS, the Board of Trustees of the Town of Estes Park, Colorado has determined that it is in the best interest of the Town to amend certain sections of the Municipal Code of the Town of Estes Park, Colorado.

WHEREAS, said amendments to the Estes Park Municipal Code are set forth on Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, the Board of Trustees of the Town of Estes Park has determined that it is in the best interest of the Town that the amendments to the Estes Park Municipal Code, set forth on Exhibit "A".

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

Section 1: The Estes Park Municipal Code shall be amended as more fully set forth on Exhibit "A."

Section 2: This Ordinance shall take effect and be enforced thirty (30) days after its adoption and publication.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO, THIS 8th DAY OF September, 2015.

TOWN OF ESTES PARK, COLORADO

By: _____
Mayor

ATTEST:

Town Clerk

I hereby certify that the above Ordinance was introduced and read at the meeting of the Board of Trustees on the _____ day of _____, 2015, and published in a newspaper of general circulation in the Town of Estes Park, Colorado, on the _____ day of _____, 2015.

Town Clerk



Town Clerk <townclerk@estes.org>

Wildlife Protection Ordinance

1 message

Julie Guzzetta <jguzz287@gmail.com>

Sun, Aug 30, 2015 at 7:57 AM

To: townclerk@estes.org

Yes, I support the proposed ordinance - and the stronger the language the better.

Thank you,

Julie Guzzetta

1155 South St. Vrain Ave. 1-4

Estes Park, CO 80517

303-432-0211

Fwd: Comment on New ordinance

1 message

Suzanna Simpson <ssimpson@estes.org>

Mon, Aug 31, 2015 at 7:57 AM

To: Kate Rusch <krusch@estes.org>, Wes Kufeld <wkufeld@estes.org>, Town Clerk <TownClerk@estes.org>, Trustees <trustees@estes.org>

Good morning,

Please see below for comments on the proposed wildlife protection ordinance.

Thank you,

Suzanna Simpson
Executive Assistant
Administration Department
Town of Estes Park
970-577-3700
ssimpson@estes.org
www.estes.org

----- Forwarded message -----

From: <maryjejo@aol.com>

Date: Sat, Aug 29, 2015 at 7:36 AM

Subject: Comment on New ordinance

To: ssimpson@estes.org

I believe the new ordinances are well written and I agree with the proposal.

I wonder if any consideration is being given to banning humming bird feeders and other bird feeders. There are many incidents of bears on deck, attracted to these feeders, creating dangerous situations for the residents.

Mary Jean Johnson

Wildlife Protection Ordinance

1 message

Doug and Nancy Voiles <dlvoiles7@gmail.com>
To: townclerk@estes.org

Sun, Aug 30, 2015 at 11:38 AM

We're coming at the bear problem from the wrong direction. Rather than ceding our normal existence to the growing bear population we should simply control the bear population.

Bears are not benign nuisances like deer and elk. Bears are predators – dangerous to pets, children and adults. Given the trend in sightings, it's only a matter of time before someone is injured. A sow and two cubs were observed on the 9-hole golf course shortly before the school day began on Friday, August 28. This observation is uncomfortably close to the school campus. I've observed bear tracks on my recently-coated driveway in Prospect Estates twice in the past month, and these were not on trash collection days.

Professional hunters should be retained to take back control of the Estes Valley. Trapping and relocation should be feasible in many instances but some harvesting will likely be required. As in Alaska, the meat yielded by thinning the population can be donated to animal shelter and other feeding programs.

If we enact the residential trash container requirement, it will not reduce the bear population. When the town-habituated bear population continues to grow, what will we do next – prevent humans from walking around the lake before 10:00 AM or with an armed escort? How will we handle visitor encounters with bears?

Keeping birds away from trash bags is fairly easy. Simply, give the bag contents about 5 or 6 squirts of Windex (or another cleaner with ammonia) before sealing. I haven't had any bird problems since adopting this strategy.

Using hard-sided residential containers raises another problem – wind-driven projectiles. An empty hard-sided container will not remain stationary for long on a typical windy day in Estes Park.

Public safety is far better served by thinning the population than hardening residential trash containers. Some enhanced enforcement of trash management may be required for commercial establishments where trash is generated and stored outside daily.

Sincerely,

Doug Voiles
Estes Park

wildlife ordinance

1 message

Lauretta Rion <lriowa2@gmail.com>

Fri, Aug 28, 2015 at 2:38 PM

To: townclerk@estes.org

After reading the email sent, I am in favor of the **Wildlife Protection Ordinance**.

I probably won't be able to make the September 8th meeting, but would like you to voice my support for it.

Lauretta Rion

Estes Park Resident



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Wildlife Protection Ordinance comments

1 message

V Tesar <tes939@live.com>
To: townclerk@estes.org

Mon, Sep 7, 2015 at 1:41 PM

Perhaps I am too late with this response. I just read the EPNews article, today.

As a resident, I am opposed to the requirements for a container to be used with my bag service. I have a bear-resistant container that is cabled to my deck. It is too heavy and awkward to drag to the street. I'm in my 70's, with back, neck, and shoulder problems. I am also concerned about someone stealing it when it is near the street. My bag service is picked up around 9:00 a.m. I put the bag out around 8:00 a.m. and usually watch to make sure ravens don't get into it. They are more of a problem in the winter than in the summer.

I don't believe this ordinance addresses the real issue. Has anyone bothered to place signs in every rental room at the YMCA and in motel rooms, stating that a "Fed bear is a dead bear" and "Lock your doors and windows when you leave the room." The accounts that I heard about a couple of the bears that were killed (unnecessarily) were because, at the "Y" the door and windows were open; while at Twin Owls, one of the employees was feeding the bear strawberries and guests were feeding the bears, all for the sake of photos. Neither situation had an aggressive bear, according to witnesses at each scene.

I have done my part to keep the bears out of my trash. I resent this ordinance forcing me to find some other container to stick out by the street, so either the city snow plow driver or the person who plows my driveway in the winter will have to hit some iron post that I need to keep the trash can from blowing away while it is permanently anchored near the street. I can not, physically, drag a trash can back and forth. My trash volume is quite small and seldom has anything with a food odor, since most of my food containers go to recycle.

Vicki Tesar

September 8, 2015

To: Honorable Mayor Bill Pinkham and Estes Park Board of Trustees: Wendy Koenig, Mayor Pro Tem; John Ericson, Bob Holcomb; Ward Nelson; Ron Norris; and John Phipps

From: Johanna Darden, 501 Mac Gregor Avenue, Estes Park, CO 80517 *JD*

In Re: Wildlife Ordinance for the Town of Estes Park

I read the four letters to the Board with comments on the wildlife ordinance up for discussion this evening. I do not understand how a person can be so uniformed about bears considering how much information has been printed constantly for years in the Estes Park News and the Estes Park Trail Gazette. Bears in the Estes Valley are no longer being relocated. If a bear becomes a nuisance because he breaks into property or goes into an unlocked business or residence, he will be trapped and killed by Colorado Parks and Wildlife if the property owner requests the trapping. The bears are then dumped into the land fill in most cases. And as for bears being predators of humans, it is the humans that are the predators of the bears and not the other way around. Bears may do bad things, but they do them to obtain food for survival. Bears are smart, curious, funny and in danger of being killed because of human carelessness, or worse, intentional feeding.

The ordinance that you are considering is better than anything we have to date, but it is weak and does not require business owners, citizens, visitors and even our town to do what is needed to keep our community safe and protect our wildlife. If one can afford to visit, live, or work in the Estes Valley, the cost of bear-proof garbage containment should be considered a necessity. Information is available for every person to educate themselves about bear body language and steps to follow to secure their home, their car, and their person from harm and to protect wildlife. This will not solve every problem, but there will be far fewer problems than that which exist currently.

There is also no need to feed the birds from April 1 until the end of November when bears are out day and night. Hummingbird feeders and birdseed are known attractants for bears. We can have both, our birds and our bears. Hummingbirds pollinate flowers. Twenty-five percent of their diet should be protein. They get that from eating insects. Plant tubular flowers that are purple and red and you will have hummingbirds. Put up hanging baskets instead of feeders. In hot temperatures hummingbird feeders should be thoroughly sanitized every day and not topped off so the birds do not become ill. How high is high enough to hang feeders so bears cannot reach them? Bears climb onto decks. Is it really worth the death of a bear to unnecessarily feed birds?

Please ask Chief Kufeld and the Bear Education Task Force to make the wildlife ordinance strong to protect our community and our wildlife.