

## TITLE 6: HEALTH AND SAFETY

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## 6.04: AMBULANCE SERVICES

### SECTIONS:

6.04.010: AUTHORITY AND PURPOSE

6.04.020: DEFINITIONS

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6.04.060: COMPLAINT AND INVESTIGATION

6.04.070: RECOMMENDATION OF DENIAL, REVOCATION OR SUSPENSION PROCEDURES

### 6.04.010: AUTHORITY AND PURPOSE

These Rules and Regulations are adopted pursuant to the authority granted the Board of County Commissioners "Board" under the Colorado Emergency Medical Services Act, Section 25-3.5-101, et seq., C.R.S., and Section 30-11-107(1)(q), C.R.S. The Board finds that the emergency transportation of sick, injured or otherwise incapacitated or helpless persons is a matter closely affecting the public interest and welfare and declares that it is in the best interest of the public health, safety and welfare, and in accordance with the law, that these Rules and Regulations be adopted.

**A. Purpose.** The purpose of these Rules and Regulations is to set forth the requirements for the inspection, licensure and operation of ambulance services, ambulance personnel and ambulance vehicles operating in Pitkin County. Pitkin County shall perform licensing procedures in accordance with all applicable federal, state, and local laws and regulations to operate an ambulance service in Colorado.

**B. Amendments.** The Board reserves the right to amend these Rules and Regulations, and any other individual conditions of licensing as applied to any particular license, as needed in keeping with its legislative function and in order to implement the policy of the State of Colorado that the regulation and control of ambulance licenses is in the exclusive purview of the Board.

**C. Variances.** A variance from the terms of these Rules and Regulations may be granted if the Board finds such action is necessary to protect the public health, safety, or welfare. Such action may include the issuance of temporary ambulance service licenses. Such variance shall remain in effect for the period specified by the Board.

#### **6.04.020: DEFINITIONS**

As used in these Rules and Regulations are defined in Code of Colorado Regulations of the Department of Public Health and Environment, Health Facilities and Emergency Medical Services Division pertaining to Emergency Medical Services: 6 CCR 1015-3.

#### **6.04.030: ISSUANCE OF AMBULANCE LICENSES AND VEHICLE PERMITS**

**A. License Required.** No person or agency, private or public, shall transport a patient from any point within Colorado in an ambulance, to any point within or outside Colorado unless that person or agency holds a valid license and permits issued by the county where the service is based and by the county where the patient originates, except as provided by 6.04.030, Section B of these Rules and Regulations.

The County may enter into reciprocal licensing and permitting agreements with other counties and neighboring states.

**B. Exemptions to Licensing Requirements.** The provisions for exemptions will be provided as identified in 6 CCR 1015-3, Chapter Four, Section 3.2. In addition, the County can make an exception to licensing requirements for the following:

1. Ambulances based outside the County may respond to calls for service originating within the County under the following conditions:
  - a. When specifically authorized by the Board, or
  - b. Under conditions of major catastrophe or emergency when permitted ambulances are insufficient, not available, or inappropriate for given transport situation, or
  - c. Under reciprocity procedures of the EMTAC.
2. All-wheel drive, full tracked or other special purpose vehicles designed or used to evacuate patients from areas or terrain inaccessible to permitted ambulances. These special purpose vehicles may only transport patients to the closest practical point of access for a permitted ambulance.

#### **6.04.040: GENERAL REQUIREMENTS**

**A. Administration.** The Pitkin County Emergency Medical Trauma Advisory Council (EMTAC) is recognized as the appropriate agency to oversee the application process for ambulance service licensing and vehicle permits. The

County utilizes the EMTAC member's expertise in evaluating applications and renewals and for making recommendations regarding licensure and permits to the Board. The EMTAC licensing and permit application forms are hereby adopted by Pitkin County.

**B. Application for Ambulance Service License.** All applications for Ambulance Service License shall be filed for processing through the EMTAC. The EMTAC shall review the application(s) and the applicant's records for compliance. Finding that the ambulance service meets all requirements of these Rules and Regulations and the EMTAC Rules and Regulations pertaining to ambulance licensing, the EMTAC shall forward a recommendation for licensure to the Board.

**C. Medical Director.** Each ambulance service shall have a single Medical Director who supervises the medical acts performed by all EMS providers. The Medical Director shall meet the qualifications as defined in the Rules Pertaining to EMS Practice and Medical Director Oversight at 6 CCR 1015-3, Chapter Two, Section 4. Any changes in Medical Director during the term of the ambulance service license must be submitted in writing to the EMTAC within fifteen (15) days.

**D. Ambulance Specifications.** Ground vehicles permitted and placed in use as ambulances in the County shall be used as ambulances provided they continue to meet minimum standards for suitability, construction and general condition as established by the EMTAC. Operators may appeal adverse decisions by the EMTAC as to suitability, construction, and general condition of such vehicles to the Board.

**E. Ambulance Equipment.** The EMTAC will verify for the County that permitted ambulances are in compliance with the minimum equipment list for the type of service defined by their permit as defined in the Rules Pertaining to Licensure of Ground Ambulances at 6 CCR 1015-3, Chapter Four, Section 9. The EMTAC will verify for the County that all equipment on the ambulance is properly secured and medications and supplies are maintained and stored according to the manufacture's recommendations and any federal, state or local requirements.

**F. Vehicle Inspections:** The County shall verify that each ambulance is inspected annually. The EMTAC is delegated as the qualified representative to ensure compliance with the rules established in 6 CCR 1015-3.

**G. Ambulance Staffing Requirements.** No patient shall be transported in an ambulance operating in the County unless the ambulance is staffed by a crew consisting of at least one Emergency Medical Technician (EMT) or Colorado Registered Nurse and one ambulance driver. The Emergency Medical Technician or Registered Nurse will be responsible for direct patient care. The minimum requirement for the ambulance driver shall be eighteen (18) years of age with a valid driver's license.

Consistent with § 25-3.5-202, CRS in the case of an emergency in any ambulance

service area where no person possessing the qualifications required by this section is present or available to respond to a call for the emergency treatment and transportation of patients by ambulance, any person may operate such ambulance to transport any sick, injured, or otherwise incapacitated or helpless person in order to stabilize the medical condition of such person pending the availability of personnel meeting these minimum qualifications.

**H. Insurance.** Each ambulance service shall maintain current insurance coverage furnished by an insurance carrier appropriately licensed to write such policies in Colorado.

1. Vehicle Insurance: Applicants for ambulance licensing shall demonstrate minimum vehicle insurance coverage as defined by §10-4-609, CRS and §42-7-103(2), CRS with the county identified as the certificate holder.

2. Workers' compensation insurance: A minimum level is required consistent with the Colorado Workers' Compensation Act of Colorado Revised Statutes title 8, article 40-47.

3. Professional liability insurance: Documentation from the applicant that information regarding the amount of professional liability insurance the ambulance service carries was provided to employees.

4. Other Insurance: commercial or comprehensive general liability insurance, medical malpractice and other insurance policies as may be required by law, in amounts that meet or exceed limits specified in the Governmental Immunity Act or other applicable statutes.

**I. Change in Ownership.** Any change of ownership shall require a new application and license. Any sale or exchange of stock in excess of fifty percent (50%) of the total outstanding stock or a corporation shall be deemed a change of ownership for the purposes of these Rules and Regulations. Any change of ownership or any change of stock ownership of ten percent (10%) or more shall be reported in writing to the Board within thirty (30) days.

**J. Severability.** If any provision of these Rules and Regulations is found by a court of competent jurisdiction to be invalid, the remaining provisions of the Rules and Regulations shall continue in full force and effect.

**K. No Third Party Beneficiary.** Nothing in these Rules and Regulations shall be construed to create a cause of action and/or civil liability remedy in any person. These Rules and Regulations shall not be construed to create a duty to any third party where no such duty otherwise existed. It is the express intention of the Board that any third party receiving services or benefits under these Rules and Regulations shall be deemed to be an incidental beneficiary only.

#### **6.04.050: LICENSURE PROCESS**

**A. Ambulance Service License:** An ambulance service license shall be issued by the County upon compliance with 6 CCR 1015-3 and all license requirements established by the County. The type of license issued shall describe the maximum level of ambulance service that could be provided at any time by the service. Applications shall be submitted to the EMTAC for review and it will submit recommendations for licensure or denial of licensure to the County. No license or permit issued by the Board shall be sold, assigned, or otherwise transferred.

**B. Permits of Vehicles:** The County shall issue permits for each ambulance vehicle used by the ambulance service. The Ambulance service shall submit an application for a vehicle permit to the EMTAC. The EMTAC will recommend vehicle permits to the County based on the application submitted and an inspection of the vehicle. The EMTAC shall inspect each vehicle annually.

**C. Licensure Period.** The licensure period for all ambulance services shall be for twelve (12) months.

**D. License Renewal:** The ambulance shall submit a completed renewal application form to the EMTAC no less than 30 days before the date of license expiration.

#### **6.04.060: COMPLAINT AND INVESTIGATION**

All complaints and allegations of unlicensed services shall be directed to the Board. The Board may use outside resources to validate the complaint. If the circumstances show violations may be occurring at a level requiring an investigation the Board may use an outside resource for that purpose. The Board will provide a notice in writing to the ambulance service the resolution of the investigation. If the ambulance service is licensed outside of Pitkin County, the County will also notify other local entities with jurisdiction over ambulance services, the department and/or the Colorado Medical Board for complaints regarding EMS providers or other medical personnel with the service or the medical director.

**A. Notification:** The County shall notify the Medical Director of the ambulance service, in writing, of a violation of the ambulance licensing regulations by the ambulance service or alleged complaints or violations by individual medical providers operating on an ambulance service.

**B.** If violations are found, the County shall enforce the Denial, Revocation or Suspension Procedures outlined in Section 6.40.070 of these rules.

#### **6.40.070 RECOMMENDATION OF DENIAL, REVOCATION OR SUSPENSION**

**A. Authority.** The Board, on its own direction or upon the recommendation of the EMTAC, may deny, suspend or revoke licensure or vehicle permits. Denial, suspension or revocation may result from a violation of any provision of these Rules and Regulations, the EMTAC Rules and Regulations, any law of the State of Colorado, or ordinance or regulation of any municipality in the Pitkin County. The

reasons for denial shall be provided, in writing, to the Medical Director and/or Agency Director, depending on the violation.

**B. Revocation or Suspension of License.** Upon a determination by the EMTAC that any licensed ambulance service has violated or failed to comply with any provisions of these Rules and Regulations, the EMTAC may, depending on the severity of the non-compliance recommend the Board revoke or temporarily suspend the license. The Board makes the final determination regarding licensed ambulance service having violated or failed to comply with any provisions of these Rules and Regulations. The Board may temporarily suspend any license for a period not to exceed thirty (30) days.

**C. Notice of Suspension or Revocation.** Notice of suspension or revocation shall be provided in writing to the licensee holder at the address on file.

**D. Application after Revocation.** If a license is revoked, the ambulance service licensee may not make a new application for a period of two (2) years from the date of revocation.

## **6-41: PROHIBITION OF POSSESSION AND PURCHASE OF TOBACCO AND NICOTINE PRODUCTS BY MINORS AND THE SALE OR DISTRIBUTION OF TOBACCO AND NICOTINE PRODUCTS TO MINORS**

### **6-41-010: LEGISLATIVE INTENT AND PURPOSES**

The BOCC finds that smoking and the use of tobacco and nicotine products is increasing among the youth of Pitkin County. This increase in use among our youth creates and will maintain a significant health threat to the youth of the County and the adult population as today's youth matures. The BOCC finds that this public health threat requires permanent regulation in the form of a prohibition of the possession of tobacco and nicotine products on the part of individuals under 21 years of age and sale of these products to individuals under 21 years of age.

### **6-41-020: DEFINITIONS**

**"Distribute or Distribution"** means to furnish, give, provide or to attempt to do so whether gratuitously or for any type of compensation.

**"Education Counseling"** means any education, diversion program or similar program approved by either Pitkin County Public Health or the Colorado Department of Human Services whether completed in person or electronically over the internet.

**"Electronic Smoking Device"** means any product containing or delivering nicotine intended for human consumption that can be used by an individual to simulate smoking in the delivery



of nicotine or any other substance, even if marketed as nicotine-free, through inhalation from the product. Electronic Smoking Device includes any refill, cartridge or component part of a product, whether or not marketed or sold separately, e-cigarettes and vaping devices.

**“Minor”** means any individual under the age of 21 years.

**“Public Health Agency”** includes the Pitkin County Board of Health and Pitkin County Public Health Department.

**“Tobacco and Nicotine Products”** means a product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an electronic cigarette, cigar, cigarillo, pipe or other electronic smoking device. Tobacco and nicotine products do not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco cessation product or for other medically approved or certified purposes.

**Undefined terms.** Any undefined terms used in this regulation shall have their accepted definitions under Colorado Law.

#### **6-41-030: PROHIBITED CONDUCT**

#### **6-41-031: POSSESSION OF CIGARETTES, TOBACCO PRODUCTS OR NICOTINE PRODUCTS BY A MINOR IS PROHIBITED.**

**6-41-032:** Sale or distribution of cigarettes, tobacco products or nicotine products to a minor, either personally or through an agent or employee, is prohibited. In the event of a retail sale of cigarettes, tobacco or nicotine products to a minor, liability for violating this prohibition attaches to the sales agent or employee of the retail establishment as well as to the retail establishment’s owner or owners and shall constitute multiple violations and culpability for a single sales transaction.

#### **6-41-040: EXCEPTIONS AND DEFENSES**

This regulation does not apply to any product that has been approved by the Food and Drug Administration of the United States Department of Health and Human Services as tobacco or nicotine use cessation product.

This regulation does not prohibit an individual under the age of 21 from handling tobacco or nicotine products during the course of lawful employment.

#### **6-41-050: PENALTIES**

Violation of any provision of this regulation shall be enforceable by the imposition of a civil penalty and not considered to be, or prosecuted as, a criminal offense.

Violation of Section 6-41-032 shall be subject to a civil penalty in an amount of \$1000. Enforcement hearings and penalty assessment may be through either the Pitkin County Court or the Pitkin County Hearing Officer.

Any law enforcement officer, County code enforcement officer or inspector operating on the authority of the Public Health Agency may enforce this prohibition through the penalty assessment procedure provided in C.R.S. 16-2-201, or its successor, including the levy of a surcharge as provided in C.R.S. 30-15-402. All fines and surcharges shall be paid to the County and administered by the Public Health Agency for purposes of enforcement of this prohibition, public health programs such as tobacco and substance abuse prevention and mental health programs.

**6-41-060: SEVERABILITY**

If any section or part of this regulation is held to be invalid, void or of no effect by a court of competent jurisdiction, the remainder of this regulation shall remain in full force and effect.

**6-41-070: COMPLIANCE AND MONITORING**

Compliance with this regulation shall be monitored and enforced by the Public Health Agency or its designee. In addition, any law enforcement officer or the Pitkin Code Enforcement Officer may enforce the provisions of this regulation.

**6-41-071:** All retail locations offering for sale tobacco products or nicotine products must be open to inspection by Pitkin County Public Health or other authorized County official during regular business hours. From time to time, Pitkin County Public Health will conduct compliance checks by engaging persons under the minimum legal sales age to enter locations where Tobacco Products and Nicotine products are sold to attempt to purchase these age-restricted products.

**6-41-072:** Parental or legal guardian written consent is required for any minor to participate in a compliance check. Under-aged individuals participating in compliance checks will be supervised by Pitkin County Public Health or other designated County personnel and will not be guilty of illegal possession or illegal procurement when those items are obtained as a part of the compliance check.

*(Prior Code Title V Section 6.04 amended (part) by Ord. 014-2003, 04-23-03; repealed and reinstated Ord. 006-2007; repealed and reinstated Ord. 015-2015, 04-22-2015; Ord. 001-2020, 01-08-2020*

**6.08: AIR POLLUTION CONTROL GENERALLY**

SECTIONS:

- 6.08.010 POLICY
- 6.08.020 DEFINITIONS
- 6.08.030 APPLICABLE AREA
- 6.08.040 STATE EMISSION CONTROL REGULATIONS
- 6.08.050 AIR STANDARDS

- 6.08.060 EMERGENCY PROCEDURES
- 6.08.070 PUBLIC NUISANCE
- 6.08.080 DIRECT SOURCES OF POLLUTION
- 6.08.090 ABATEMENT OF DIRECT SOURCES
- 6.08.100 ENFORCEMENT AND REMEDIES
- 6.08.110 PITKIN COUNTY CLEAN AIR ADVISORY BOARD AND POWERS
- 6.08.120 JUDICIAL REVIEW
- 6.08.130 INJUNCTIONS
- 6.08.140 TEMPORARY RELIEF
- 6.08.150 CUMULATIVE REMEDIES
- 6.08.160 INTERPRETATION

#### **6.08.010: POLICY**

In order to foster the health, welfare, convenience, and comfort of the inhabitants of Pitkin County and to facilitate the enjoyment of nature, scenery, and other resources of this county, it is declared to be the policy of the board of county commissioners to achieve the maximum practical degree of air purity possible. To that end, it is the purpose of this regulation to require the use of all available practical methods to reduce, prevent, and control air pollution throughout the county and to maintain a cooperative air quality program with the state of Colorado. It is further acknowledged that the prevention, abatement, and control of air pollution in the county are matters affected with a public interest and that the provisions of this regulation are enacted in the exercise of the police powers granted to the county pursuant to CRS 1973, Sec. 25-7-125, and generally for the purpose of protecting the health, peace, safety, and general welfare of the people of this county. (Prior code Title III Art. 1)

#### **6.08.020: DEFINITIONS**

For purposes of this chapter (unless the context requires otherwise):

“Abate” means to discontinue use or operation of an air contamination source.

“Air contaminant” means fumes, smoke, particulate matter, vapor, gas, or any combination thereof, but it does not include water vapor or steam condensate.

“Air contamination source” means any source whatsoever at, from, or by reason of which there is emitted or discharged into the atmosphere any air contaminant.

“Air pollution control authority” (hereinafter “authority”) means the board of county commissioners which may act through its chairman when the requirements of this regulation do not afford sufficient time for the board to meet and act as a whole.

“Ambient air” means the surrounding or outside air.

“Commission” means the Colorado Air Pollution Control Commission created by CRS (1973) Section 25-7-104.

“Division” means the division of administration of the Department of Health of the state of Colorado.

“Emission” means the discharge or release into the atmosphere of one or more air contaminants.

“Emission control regulation” means and includes any standard promulgated by regulation which is applicable to all air contamination sources within a specified area and which prohibits or establishes permissible limits for specific types of emissions in such area, and also any regulation which by its terms is applicable to a specified type of facility, process or activity for the purpose of controlling the extent, degree, or nature of contamination emitted from such type of facility, process or activity, and also any regulation adopted for the purpose of preventing or minimizing emission of any air contaminant in potentially dangerous quantities.

“Local air pollution law” means any law, ordinance, resolution, code, rule or regulation adopted (by reference or otherwise) by the board of county commissioners of Pitkin County, Colorado, or any city or town within the county, pertaining to the prevention, control and abatement of air pollution.

“Motor vehicle” means any self-propelled vehicle which is designed primarily for travel on the public and private roads, highways, and other rights-of-way, and which is generally and commonly used to transport persons and property over such roads, highways and rights-of-way.

“Person” means any individual, public or private corporation, partnership, association, firm, trust, estate, the state or any department, institution, or agency thereof, any municipal corporation, county, city and county, or other political subdivision of the state, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

“Pitkin County clean air advisory board” means that board established pursuant to Section 6.08.110.

“Stability” is an atmospheric condition where little or no diffusion of pollutants occurs. (***Prior code Title III Art. 2***)

### **6.08.030: APPLICABLE AREA**

The provisions of this chapter shall apply within all areas of Pitkin County, Colorado, whether incorporated or unincorporated, wherein no city or town has promulgated a local air pollution law; provided, however, that to the extent this regulation is more restrictive than such law adopted by any city or town within this county, this regulation shall apply in lieu of the law of the city or town to the extent of the inconsistency. (Prior code Title III Art. 3)

### **6.08.040: STATE EMISSION CONTROL REGULATIONS**

It is the intent of the board of county commissioners that all emission control regulations promulgated by this chapter shall be at least the same as, or more

restrictive than those adopted by agencies of the state of Colorado pursuant to the Air Pollution Control Act of 1970 and shall be so construed; provided, however, that nothing herein shall be construed to prohibit this chapter from applying to any air contamination or air contamination source which is not subject to control under the provisions of said Act. No county action taken, or variance granted pursuant to this chapter with respect to any facility, activity or process shall ever be construed to relieve any holder thereof from the duty to maintain such facility, activity or process in compliance with the emission control regulation adopted by any agency of the state of Colorado, nor to relieve the Division from its duty to enforce such emission control regulations with respect to such facility, activity or process. Whenever required by the Air Pollution Control Act of 1970, the commission and board of county commissioners shall confer and review each other's records with respect to Pitkin County and coordinate their respective plans and programs for Pitkin County. **(Prior code Title III § 4-1)**

**6.08.050: AIR STANDARDS**

There are established the following maximum allowable concentrations of specific contaminants within any area of Pitkin County:

Contaminant	Concentration	Test Method
A. Carbon mon-oxide	8 hr. 9 ppm 1 hr. 35 ppm	Gas Chromo- tograph or NDIR
B. Photochemical oxidants (cor- rected for NO <sup>2</sup> )	0.08 ppm	Chemiluminescent
C. Nitrogen dioxide	0.05 ppm	Colorimetric
D. Sulfur dioxide	24 hr. 0.005 ppm 3 hr. 0.026 ppm	Pararosaniline
E. Suspended particulates	24 hr. 150 µg/m <sup>3</sup>	High Volume Sampler
F. Hydrocarbons	3 hr. 0.24 ppm	Flame ionization detection using gas chromatograph

(Prior code Title III § 4-2)

**6.08.060: EMERGENCY PROCEDURES**

A. The Pitkin County environmental health officer shall periodically test ambient air within the county for carbon monoxide and hydrocarbons and particulates, and if the following concentration levels are reached within any area of the county, he or she shall immediately notify the authority, which shall take those actions corresponding to the following schedule:

Pollutant	Concentration	Time of Exposure	Action
1. Carbon monoxide	5± 1 ppm	8 hr.	Advisory
2. Carbon monoxide	25± 2 ppm	1 hr.	Advisory
3. Carbon monoxide	7± 1 ppm	8 hr.	Caution
4. Carbon monoxide	31± 2 ppm	1 hr.	Caution
5. Carbon monoxide	9 ppm	8 hr.	Alert
6. Carbon monoxide	35 ppm	1 hr.	Alert
7. Hydrocarbons	.17 ppm	3 hr.	Advisory
8. Hydrocarbons	.22 ppm	3 hr.	Caution
9. Hydrocarbons	.24 ppm	3 hr.	Alert
10. Particulates	135 µg/m <sup>3</sup>	24 hr.	Advisory
11. Particulates	145 µg/m <sup>3</sup>	24 hr.	Caution
12. Particulates	150 µg/m <sup>3</sup>	24 hr.	Alert

B. An advisory action shall consist of a request by the county environmental health officer to the public to voluntarily reduce automobile trips and use of fireplaces.

C. A cautionary action shall consist of an announcement by the county environmental health officer that concentration levels are getting dangerously high and that more stringent emission controls may be forthcoming.

D. If an alert is given, the authority is authorized to impose reasonable restrictions on the use of automobiles, fireplaces, restaurant grills, incinerators, and other direct and indirect air contaminant sources, whether or not a permit or variance for operation of the same has been issued or granted.

E. With respect to limitations on auto use during an alert, the authority may require, among other things, the following:

The establishment of auto-free areas within which automobiles may not be driven;

The establishment of intercept parking lots so that automobiles may be required to be parked in designated areas and passengers transported by means of public mass transit;

The imposition of fees for parking or other disincentives within designated areas to discourage driving into areas with high concentrations of pollutants.

F. With respect to limitations on use of fireplaces during an alert, the authority may require, among other things:

1. That fireplaces be operated only within limited time periods;
2. That only completely dry woods be used in fireplaces within the county.

G. Alert procedures shall be applied whenever the maximum pollutant levels above described are reached or exceeded and meteorological conditions indicate that the atmosphere is in a state of extended stability such that little or no diffusion of pollutants is expected. Alert procedures shall be maintained only until such time as it is determined that the atmosphere has diluted (or limitation on emission has reduced) pollutant concentrations to the cautionary levels. ***(Prior code Title III § 4-3)***

#### **6.08.070: PUBLIC NUISANCE**

Whether or not a permit or variance for operation of the same has been issued or granted, no person shall use any property, facilities, equipment, process products, or compounds, or commit any act, which materially contributes to the emission into the air of dust, fumes, gas, mist, odor, smoke or vapor, or any combination thereof, of a character and in a quantity as to be detectable by adjacent property owners or the public, at any point beyond the property limits of the premises occupied or used by the person responsible for the source thereof, so as to interfere with their health, repose or safety, or cause severe annoyance or discomfort, or tends to lessen normal food and water intake, or produces irritation of the upper respiratory tract, or produces symptoms of nausea, or is offensive or objectionable to normal persons because of inherent chemical or physical properties, or causes injury or damage to real property, personal property or human, animal or plant life of any kind, or which interferes with the normal conduct of business, or is detrimental or harmful to the health, comfort, living conditions, welfare and safety of the inhabitants of Pitkin County. ***(Prior code Title III § 4-4)***

#### **6.08.080: DIRECT SOURCES OF POLLUTION**

A. There are adopted, and incorporated by this reference, all direct source air contaminant regulations of the state of Colorado as contained in Regulation No. 3 of the Colorado Air Pollution Control Commission (“Regulation Governing Air Contaminant Emission Notice, Emission Permit, and Fees for Direct Sources”), or otherwise, and as presently approved or hereinafter amended, which regulations are to be fully complied with, and enforced by the Division, within Pitkin County to the end that the maximum benefits of such regulations are achieved. Applications for emission permits made pursuant to said regulations shall be granted only if issuance of the permit will not interfere with the attainment or maintenance of the ambient air quality standards herein established for Pitkin County.

B. Any other provisions of this chapter notwithstanding, any new restaurant in Pitkin County within zone districts R-30, R-15, R-6, SR, AF-2, AF-3, AR-1, AR-2 HD, T, B-1, B-2, I and PMH, or within any subdivision containing lots less than five acres in size (except those zoned RS-160) or any present restaurant in the above-described areas of Pitkin County proposing the extensive remodeling of kitchen facilities, shall be required to install a grooved griddle or an alternative low-pollution-emission cooking device of equivalent emissions to a grooved griddle in proper working order if chopped beef,

ground beef, hamburger, pork sausage, pork breakfast sausage, or other meat with a fat content in excess of fifteen (15) percent by weight are regular menu items. The Aspen/Pitkin environmental health department shall review and approve such grooved griddle or alternative low-pollution-emission device under standards to be established by the department. All existing restaurants in the above-defined areas in Pitkin County offering hamburgers or other high-fat-content meats, as described above, as regular menu items shall replace all charbroiler type units that allow fat from the meat to fall onto heated surfaces with grooved griddle devices or alternative low-pollution-emission devices as determined by the Aspen/Pitkin environmental health department, by December 1, 1984. ***(Prior code Title III § 4-5)***

#### **6.08.090: ABATEMENT OF DIRECT SOURCES**

A. Any direct air contamination source within Pitkin County not subject to Regulation No. 3 of the Colorado Air Pollution Control Commission or other applicable regulation because such source was in existence (under prior permit approval or otherwise) at the time of adoption or amendment of such regulation, shall be abated or brought into conformance with federal, state and local air pollution regulations, the provisions of any federal or state regulations to the contrary notwithstanding. Any person owning or operating any direct air contaminator source subject to abatement or requirement of conformance shall, within ninety (90) days of the approval of the resolution codified in this chapter (or within ninety (90) days of any amendment to a direct source regulation which standards cannot be satisfied by such owner or operator), make application to the authority for a determination of an appropriate abatement schedule. The authority shall, subsequent to a public hearing thereon, establish a period of time within which such air contamination source shall be abated or brought into conformance taking into consideration the following:

The extent of air degradation caused by the emission source;

The date the source was installed or initiated, its expected economic life and length of time it has been nonconforming;

The costs incident to bringing the source into conformance;

If the source is to be abated, the capital expenditure made to install or initiate the source of pollution, the extent to which the improvements have been depreciated for federal income tax purposes, and the salvage value of the improvements;

The extent to which continuation of emissions will affect the public health, safety and welfare, with particular emphasis on the area directly affected by the emission source; and

Such other factors as to the authority appear relevant.

B. All applicants shall be notified of the authority's determination in writing within thirty (30) days of the public hearing unless otherwise agreed to by the applicant.



Any such determination is subject to judicial review as hereinafter provided. *(Prior code Title III § 4-6)*

#### **6.08.100: ENFORCEMENT AND REMEDIES**

A. The environmental health officer of Pitkin County is authorized to enforce compliance with the provisions of this chapter and directed, on becoming aware of a violation, to attempt to abate the same by issuance of an order specifying the provision or provisions of this chapter of which such person is deemed to be in violation and stating the manner in which the person is said to violate it, and such order shall require the person complained against to cease and desist from such violation within such reasonable time as the officer may determine.

B. Any person who violates any cease and desist order shall be subject to a civil penalty of not more than three hundred dollars (\$300.00) for each offense; provided, however, that each day during which such violation continues shall be deemed a separate offense.

C. No building permit shall issue for any structure or appurtenance which, when operational, shall violate the provisions of any federal, state or local air pollution regulation; and the Pitkin County building inspector shall, prior to issuance of a building permit for any air contaminant emission source, determine that all federal and state emission permits have been procured. *(Prior code Title III § 4-7)*

#### **6.08.110: PITKIN COUNTY CLEAN AIR ADVISORY BOARD AND POWERS**

A. There is created a clean air advisory board consisting of six regular members and up to four alternate members. Three regular members and up to two alternate members shall be residents of the city of Aspen, be appointed by, and serve at the discretion of, the Aspen city council, for terms of three years. Three regular members and two alternate members shall be residents of Pitkin County, be appointed by and serve at the discretion of, the board of county commissioners, for terms of two years. The alternate members shall automatically act on behalf of any member who is absent or abstaining because of a conflict of interest, provided that, in matters pertaining to the city of Aspen Clean Indoor Air Act, and appeals or requests for variances from city ordinances, participation shall be limited to members appointed by the Aspen city council only.

B. Except as provided in subsection I of this section, the Pitkin County clean air advisory board may grant a variance suspending or modifying the enforcement of any emission control regulation or rule, regulation or enforcement order issued pursuant to this chapter against any person whenever the board shall determine that:

Control techniques are not available or that compliance with applicable control regulations from which a variance is sought would create an unreasonable economic burden; and

The granting of such variance would be consistent with, and aid in, implementing the legislative policy set forth in Section 6.08.010; or

The strict compliance with any provision of, or order issued pursuant to, this chapter would result in an arbitrary and unreasonable taking of property or in the practical closing of any lawful business or activity and such would be without sufficient corresponding public benefit.

In circumstances where there is no economic hardship or practical difficulty, a person may apply for an offset variance if the result of the variance application is a net decrease in air pollution emissions to a ratio of at least three to one, according to an offset variance ratio calculation formula established by the environmental health department and approved by the board. The offset shall be achieved only by the replacement of lawful pre-existing fireplaces and noncertified woodstoves with certified low-emissions solid fuel burning devices. Prior to hearing, the board shall require the applicant to provide such notice to adjacent landowners and public notice (by posting or otherwise) as it deems necessary. The burden of proof on all issues in the application and the hearing shall be on the applicant. No offset variance shall be granted unless the board makes specific findings of overall public benefit and no significant adverse neighborhood impact. If an offset variance is granted, a permit shall be issued by the board, which permit shall contain enforcement and security conditions to the satisfaction of the environmental health department, building department and county attorney, including, without limitation, the recording of the permit in a form sufficient to encumber all real property affected by the variance and providing for, without limitation: (i) stipulated enforcement by injunction and/or other appropriate remedies; (ii) payment of the county's attorney fees; (iii) reasonable inspections of the premises by county representatives; (iv) permit terms binding on successors and assigns; and (v) a stipulated liquidated damages provision for violation of the terms of the permit of three hundred dollars (\$300.00) per day, per device, per violation.

C. The variance shall be granted, terminated or modified by the board only after a hearing before it held pursuant to the provisions of this regulation. A variance may be granted with respect to any existing or proposed facility, process or activity. Hearings may be requested either by the board, the commission, the division, or by any person applying for or having received such a variance.

D. Any variance granted pursuant to the provisions of this regulation shall be granted for such period of time and under such conditions as shall be specified by the board. The failure to meet any condition of the variance without prior written permission of the board shall render such variance null and void. The board shall review, at least biannually, any variance that has been granted to determine whether the terms and conditions of variance have been complied with and whether the continuance of the variance is justified.

E. Not less than sixty (60) days after a hearing has been requested the board shall conduct such hearing at which all testimony shall be under oath and a full and complete record of all proceedings shall be made. Any information relating to secret processes or methods of manufacture or production which may be required, ascertained or discovered shall not be publicly disclosed in public hearings or otherwise and shall be kept confidential by any member, officer or employee of the board, but any person

seeking to invoke the protection of this section in any hearing for a variance shall bear the burden of proving its applicability.

F. At any hearing, any person who is affected by the proceeding and whose interests are not already adequately represented shall have the opportunity to be a party thereto upon prior application to and approval by the board, in its sole discretion, as deemed reasonable and proper by the board and such person shall have the right to be heard and to cross-examine any witnesses.

G. After due consideration of the written and oral statements, the testimony, and the arguments presented at any such hearing, the board shall enter its findings and final order, based upon evidence in the record, or make such final determination of the matter as it shall deem appropriate.

H. Variances, orders and determinations of the Pitkin County clean air advisory board shall become final within thirty (30) days from the date they are issued, unless within such period the Pitkin County clean air advisory board grants a rehearing, or unless within such period the authority concludes that the variance, order or determination interferes with the attainment of the objectives of this chapter as set forth in Section 6.08.010. If the authority so concludes, it shall, within the thirty (30) day period, notify the applicant of such conclusion, including the nature of the interference involved, and allow the applicant ten (10) days in which to request a hearing before the authority on the variance, order or determination, which hearing shall be set and conducted in accordance with this section. Following the hearing before the authority or if no hearing is requested, the authority shall enter its final determination affirming or modifying the variance, order or determination.

I. Nothing herein shall be construed to permit the grant of a variance for the operation of any air contaminant source (or commission of any act) constituting a public nuisance as defined in Section 6.08.070; nor to authorize a variance from the requirements of any federal or state direct air contaminant regulations (as described in Section 6.08.080), except that the board shall have jurisdiction to grant variances from the abatement provisions of this regulation (contained in Section 6.08.090) when the conditions for a grant of variance, as stated in subsection B of this section, have been satisfied.

J. The Pitkin County clean air advisory board shall, in addition to the powers and authorities hereinabove enumerated, recommend to the authority amendments to this chapter (or means to better enforce the same) and may make studies and investigations preliminary to such recommendations. ***(Res. 90-19; prior code Title III § 4-8)***

#### **6.08.120: JUDICIAL REVIEW**

Any final order or determination of the Pitkin County clean air advisory board or air pollution control authority shall be subject to judicial review and any such final order or determination shall be stayed pending the decision of the court. Any proceeding for judicial review of any final order or determination of the board or authority shall be filed

in the district court of Pitkin County and within twenty (20) days after the date of the order or determination. ***(Prior code Title III § 4-9)***

#### **6.08.130: INJUNCTIONS**

In the event any person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the authority may request the county attorney to bring a suit for an injunction to prevent any further or continued violation of such order. ***(Prior code Title III § 4-10)***

#### **6.08.140: TEMPORARY RELIEF**

Nothing herein shall be construed to authorize the imposition of penalties or seeking injunctive relief when any violation occurs by reason of an accident, temporary breakdown or other condition beyond the control of the owner or operator of the air contamination source. ***(Prior code Title III § 4-11)***

#### **6.08.150: CUMULATIVE REMEDIES**

It is the purpose of this chapter to provide additional and cumulative remedies to prevent and abate air pollution and air contamination. Nothing in this chapter shall be construed to abridge or alter rights of action or remedies existing before its adoption; nor shall any provision hereof be construed as stopping individuals, cities, towns within this county from the exercise of their respective rights to suppress nuisances. ***(Prior code Title III § 4-12)***

#### **6.08.160: INTERPRETATION**

The provisions of this chapter shall, whenever possible, be interpreted to comply with the mandates of CRS 1973, Section 25-7-101, et seq., the Air Pollution Act of 1970. ***(Prior code Title III § 4-13)***

### **6.12: SOLID FUEL BURNING DEVICES AND RESTAURANT GRILLS**

#### SECTIONS:

6.12.010 AIR QUALITY—DECLARATION OF POLICY

6.12.020 DEFINITIONS

6.12.030 SOLID FUEL BURNING DEVICES—INSTALLATION AND RETROFIT

6.12.040 RESTAURANT GRILLS

#### **6.12.010: AIR QUALITY—DECLARATION OF POLICY**

The board of county commissioners finds and declares that air quality is an important component of the health, safety and welfare of the citizens and community of

Pitkin County and that the air quality in and around Pitkin County is threatened by various pollutants. The board of county commissioners finds and declares that it has a duty to not only protect and improve the air quality in Pitkin County for the health, safety and general welfare of the county but also for the economic and aesthetic well-being of the county as a resort community and to preserve the scenic natural resources of the community. To this end, it is the purpose of this chapter to achieve the maximum practical degree of air purity possible by requiring the use of all available practical methods and techniques to control, prevent and reduce air pollution throughout the nonattainment areas of the county and to maintain a cooperative air quality program with the city of Aspen, state of Colorado, and the United States Environmental Protection Agency. It is further declared that the control, prevention and abatement of air pollution within the county is a matter of significant local interest and that the following regulations are enacted by the exercise of the county's police powers, including those granted to the county pursuant to Section 25-7-128, C.R.S., as amended. **(Ord. 92-18 § 1)**

### **6.12.020: DEFINITIONS**

As used in this chapter:

“Board” means the Aspen/Pitkin County clean air advisory board as redefined by Pitkin County Resolution 85-145.

“Building” means any structure used or intended for supporting or sheltering any use or occupancy including, but not necessarily limited to, boardinghouses, bed and breakfasts, attached and detached dwellings, group homes, hotels, lodges, motels, office buildings, commercial or retail buildings, public buildings, roominghouses, recreation clubs, resident occupied units, and restaurants.

“Charbroiler” means a cooking device, either gas fired or using wood or charcoal, which employs an open flame, charcoal or embers to cook food in a commercial food establishment.

“Commission” means the Colorado Air Quality Control Commission.

“Decorative gas appliance” means a device utilizing natural gas as a fuel designed to appear as a real fireplace with a four- to five-inch Class B vent, fixed glass doors, and a fire box no deeper than twenty-four (24) inches.

“Department” means the Aspen/Pitkin environmental health department.

“Department-certified device” means a Colorado Phase III certified device, a Phase II EPA certified device, or a gas log fireplace.

“Director” means the director of the Aspen/Pitkin environmental health department.

“Division” means the Colorado Department of Public Health, and Environment Air Pollution Control Division.

“Food service establishment” means any place where food is prepared and intended for individual portion service, including any site where individual portions are provided regardless of whether the food provided is consumed on or off the premises or whether there is a charge for the food served.

“Gas log fireplace” means a fireplace designed and constructed to be serviced by natural gas, containing an approved gas log set, and not designed or intended for the combustion of any solid fuel, including wood.

“High-fat content meat” means any meat and/or the meat portion of any meat product having a precooked fat percentage equal to or greater than fifteen (15) percent by weight according to established laboratory testing procedures as determined by the department, such meat and/or meat products including, without limitation, hamburger, chopped beef, ground beef, beef sausage, beef ribs, pork sausage, pork ribs and sausage made from any form of meat or combination of meats.

“Non-attainment area” means that area consisting of the assessor parcel ID numbers beginning with the following:

Parcel ID Number	
2737-29	2737-18
2737-28	2737-17
2737-21	2737-08
2737-20	2737-07
2737-19	2737-06
2735-22	2735-11
2735-15	2735-10
2735-14	2735-03
2735-13	2735-02
2735-12	2735-01
2641-31	
2643-36	2643-27
2643-35	2643-26
2643-34	

“Phase III certified device” means any wood-burning device that meets the most stringent standards adopted by the commission pursuant to Section 25-7-106.3, C.R.S.

“Phase II EPA certified device” means an airtight wood burning stove certified by the EPA to have low PM<sub>10</sub> emissions evidenced by a certificate label affixed to the device by the manufacturer.

“PM-10” is particulate air pollution less than ten (10) microns in size.

“Solid fuel burning device” means a burning device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel-fired stoves, wood stoves of any nature, fireplaces, pellet

stoves, solid fuel-fired cooking stoves, combination fuel furnaces or boilers which burn solid fuel, or any other device used for the burning of solid combustible material. Solid fuel burning devices do not include gas log fireplaces, decorative gas appliances or electrical appliances. (*Ord. 99-31 § 1; Ord. 92-18 § 2*)

#### **6.12.030: SOLID FUEL BURNING DEVICES—INSTALLATION AND RETROFIT**

A. No person shall repair, alter, move, install or reinstall a solid fuel burning device or gas log fireplace without having first obtained a building permit in accordance with the Uniform Building Code as adopted by Pitkin County.

B. In the Pitkin County nonattainment area, no person shall replace a solid fuel burning device which is substantially destroyed, demolished, or in need of replacement with another solid fuel burning device, unless the replacement is a department-certified device. Solid fuel burning devices lawfully existing and installed as of the date of enactment of the ordinance codified in this chapter may be repaired to the extent that such repair, in the reasonable judgment of the chief building inspector, is necessary to prevent the existence of an unsafe condition, and that such repair will not affect the fire box.

C. No person shall install a solid fuel burning device in any building in the Pitkin County nonattainment area unless it is a department-certified device.

D. No person shall install more than two department-certified devices in any single building within the Pitkin County nonattainment area. In the rest of Pitkin County, one of the two devices in any single building may be a solid fuel burning device, and the other shall be a department-certified device. Such devices shall be allowed only in residential buildings. In the attainment and nonattainment areas: restaurant, skier service, and lodge buildings can have a gas log fireplace and unlimited decorative gas fireplace appliances.

E. Each new solid fuel burning device, gas log fireplace or gas appliance shall be registered with the building department prior to installation and final approval of such installation by the building department. Such registration shall be obtained by submission of the stove and fireplace registration form provided by the building department.

F. No person shall burn coal in a solid fuel burning device.

G. No property owner shall rent a building if a solid fuel burning device is the sole source of heat. Property owners, and not tenants, shall be liable for any penalty imposed for a violation of this section.

H. A decorative or antique stove which is not connected with a flue and is therefore inoperative, shall not be considered a woodstove and shall not be subject to the provisions of this chapter. (*Ord. 99-31 §§ 2—4; Res. 88-58 § 1; Ord. 92-18 § 3*)

#### **6.12.040: RESTAURANT GRILLS**

It is unlawful for any person to construct, maintain or operate a restaurant grill in a commercial food service operation within the Pitkin County nonattainment area in a manner not in compliance with this section.

A. New charbroiler grills installed in commercial food service establishments on or after January 1, 1993, shall install, operate and maintain a control device that reduces uncontrolled PM<sub>10</sub> emissions by at least ninety (90) percent, according to manufacturer specified removal efficiencies. This subsection shall not apply to the replacement of an existing charbroiler with a charbroiler having a cooking surface area that is less than or equal to the cooking surface of the charbroiler being replaced. Commercial food service establishments with charbroilers that re-open for business after being closed for a period of nine months or more shall be subject to the provisions of this subsection to the same extent as commercial food service establishments that install charbroilers on or after January 1, 1993. Control devices required by this subsection shall be maintained according to manufacturer's recommended guidelines. All owners and operators of food service operations subject to the provisions of this subsection shall maintain records containing the control device's installation date, manufacturer's recommended maintenance guidelines, and the actual maintenance performed on the control device.

C. Charbroilers installed in a food service establishment after April 25, 1983, but before January 1, 1993, shall not be used to cook high-fat-content meat unless an emission control device that reduces uncontrolled PM<sub>10</sub> emissions by at least ninety (90) percent, according to manufacturer specified removal efficiencies, is installed and thereafter operated in accordance with manufacturer's suggested guidelines or instructions. Owners and operators of food service establishments subject to the provisions of this subsection who claim to serve meat that is not high-fat-content shall allow the department to enter upon the establishment at all times reasonable for the purpose of obtaining a sample of meats prepared on the charbroiler or to review and evaluate test data maintained by the establishment illustrating the fat-content levels of the meat prepared in such establishment.

**(Ord. 93-24; Ord. 92-18 § 4)**

## **6.16: COMMERCIAL WASTE HAULERS**

### SECTIONS:

6.16.010 DEFINITIONS

6.16.020 GENERAL

6.16.030 HAULER REGISTRATION

6.16.040 HAULER SERVICE REQUIREMENTS

6.16.050 RESIDENTIAL CUSTOMER AND COMMERCIAL CUSTOMER  
REQUIREMENTS

6.16.060 VIOLATION AND PENALTIES

6.16.070 PROCEDURES FOR ADOPTION OF REGULATIONS AND STANDARDS

6.16.080 EFFECTIVENESS

6.16.090 EFFECTIVE DATE



**6.16.010: DEFINITIONS**

The following words, terms and phrases when used in this code shall have the meanings ascribed to them in this Section:

- a. *Centralized Collection Facility* - The term “centralized collection facility” shall be defined as any facility that provides Solid Waste collection services to multiple Solid Waste generators using shared Containers in a central location. A drop site for Trash and/or Recoverable Materials collection shall be considered a centralized collection facility.
- b. *Commercial Customer* – The term “commercial customer” shall be defined as any premises located in unincorporated Pitkin County where multiple residential units share a Trash Container, or a commercial, industrial or institutional enterprise is carried out including without limitation retail establishments, restaurants, hospitals, schools, day care centers, office buildings, nursing homes, clubs, churches and public facilities.
- c. *Container* – The term “container” shall be defined as any rigid cart or Container with a lid or closed top that is compliant with Pitkin County’s Wildlife Protection requirements and is provided by or to customers for placing Solid Waste for collection by Registered Haulers. Containers shall be further defined as:
  - i. “Small” if their volume capacity ranges from 30 to 39 gallons
  - ii. “Medium” if their capacity ranges from 60 to 69 gallons – two Small Containers may provide the equivalent of a Medium Container
  - iii. “Large” if their capacity ranges from 90 to 99 gallons – a mix of Small and Medium Containers may provide the equivalent of a Large Container
  - iv. “Extra Large” if their capacity ranges from 1- to 4-cubic yards
  - v. Other if they are a Dumpster or roll-off with greater than 4-cubic yard capacity
- d. *County Manager* - The term “county manager” shall defined as the Pitkin County Manager. The county manager will work with and be advised by the Solid Waste Manager.
- e. *Extended Collection Service* – The term “extended collection service” shall be defined as collection provided to any residential account other than curbside service for any Container and/or Recycling Bins and/or requires manual retrieval/replacement of Containers and/or Recycling Bins from enclosed property, garage, home or other.
- f. *Manager’s Rule’s* – “Defined Term” shall be defined in Appendix 1, Title 6, Health and Safety.

- g. *Group Account* - The term “group account” shall be defined as any account for residential units or Commercial Customers that have individual Trash Containers for each residence or commercial enterprise but receive Solid Waste collection under a subscription or contract that collectively serves multiple residences and/or businesses.
- h. *Hauler* – The term “hauler” shall be defined as any private individual or entity who provides a service to collect and haul Solid Waste for another for compensation.
- i. *Hazardous Materials* – The term “hazardous materials” shall be as defined in the United States Hazardous Materials Transportation Act (49 USC Section 5101).
- j. *Landfill* – The term “landfill” shall be defined as the Pitkin County Landfill located within the Pitkin County Solid Waste Center at 32046 Highway 82 and shall not be construed to reference other regional disposal facilities.
- k. *Organic* – The term “organic” shall be defined as carbon-based material that is biodegradable into stable, odorless materials such as compost or mulch, and may include but is not limited to food scraps, compostable paper and products, yard waste, clean wood and some sludges. At a minimum, organics shall include those materials designated by the County Manager.
- l. *Qualified Facility* – The term “qualified facility” shall be defined as a facility that arranges for or causes the recovery of one (1) or more Recyclable or Organic material including items for reuse, remanufacturing, reclaiming, recycling, mulching, composting or other action that allows the resource to be recovered, and is compliant with any local, state and federal standards that may be established to regulate or designate such facilities.
- m. *Recoverable Material* – The term “recoverable material” shall be defined as any material that can be reused, remanufactured, reclaimed, recycled, mulched, composted or other action that allows the resource to be conserved. At a minimum, Recoverable Materials shall include those Recyclables and Organics designated by the County Manager. Recoverable Materials may exclude recyclables with 25% or more contamination by volume.
- n. *Recyclable* – The term “recyclable” shall be defined as a discarded or waste material that can be reused, remanufactured, reclaimed or recycled. At a minimum, Recyclables shall include those materials designated by the County Manager.
- o. *Recyclables Bin* – The term “recyclables bin” shall be defined as open-topped containers provided by Residential Customers or Registered Haulers for the purpose of collecting curbside Recyclables. The typical bin has an approximate 18-gallon capacity.
- p. *Registered Hauler* – The term “registered hauler” shall be defined as any Hauler with a current operating registration issued by Pitkin County.

- q. *Residential Customer* – The term “residential customer” shall be defined as an individual or individual residential property located in unincorporated Pitkin County that has a discrete Trash Container and collection provided under a discrete service subscription or contract for that property.
- r. *Roll-Off Service* – The term “roll-off service” shall be defined as the collection of construction or demolition debris in open-top, roll-off Containers.
- s. *Solid Waste* - The term “solid waste” shall be defined to include any Trash accepted at the Pitkin County Solid Waste Center and Recoverable Materials.
- t. *Solid Waste Manager* – The term “solid waste manager” shall be defined as the Pitkin County Solid Waste Manager.
- u. *Special Events* – The term “special events” shall be defined pursuant to Pitkin County’s Land Use Code 4-30-50(j)(3)(c).
- v. *Trash* – The term “trash” shall be defined as any Solid Waste accepted at the Pitkin County Solid Waste Center excepting Recoverable Materials.
- w. *Volume-Based Service Rates* – The term “volume-based service rates” shall be defined as residential Trash and Recyclables collection rates that are based on the Trash Container size and collection frequency and intended to provide equitable service pricing and an incentive for landfill diversion. Customers with smaller Containers/low collection frequency pay less in a volume-based system than customers with larger containers/high collection frequency.
- x. *Wildlife Protection* – The term “wildlife protection” shall be defined as those requirements for Trash Containers, Organic Containers and Container areas that make them inaccessible to wildlife and in compliance with Pitkin County Code 6.44.

***(Ord. 91-1 § 6) §6.16.10 repealed and reenacted Ord. 052-18, 12-05-18***

**6.16.020: GENERAL**

- a. provisions of this code and regulations promulgated hereunder but if requested by the Solid Waste Manager may be required to provide documentation to verify eligibility for this exemption: Permanent Exemptions – The following individuals or entities are exempted from the
  - i. A civic, community, benevolent or charitable non-profit organization that collects, hauls and markets Recoverable Materials solely for raising funds for a charitable, civic or benevolent activity.
  - ii. A property owner or agent thereof who hauls Solid Waste left by a tenant upon such owner’s property so long as such property owner does not provide collection service for compensation for tenants on a regular or continuing basis.

- iii. Haulers of demolition or construction debris that is generated in direct association with demolition, excavation or construction activities and is hauled by light duty trucks (with a gross vehicle weight rating of 14,000 pounds or less) or smaller vehicles without trailers.
- iv. Any other individuals or entities deemed exempt by the County Manager or designee.
- b. Self-Hauling – An individual or agent thereof who transports only the Solid Waste that person generates is exempt from the requirement to subscribe for Trash collection services but is not exempt from the prohibition on mixing Recoverable Materials with other Solid Waste.
- c. Roll-Off Services – Roll-Off Services are exempt from all sections of this code and regulations promulgated hereunder with the exception of Section 3 – Hauler Registration.
- d. Illegal Dumping or Accumulation - It shall be unlawful for any individual or entity to dump, allow to be deposited or accumulate any Solid Waste upon any public or private property in unincorporated Pitkin County other than at the Landfill, in any public right-of way, or upon the alleys behind or the sidewalks or roadways in front of said properties, including construction sites but excepting industrial tracts of ten (10) or more acres and agricultural lands currently in agricultural use pursuant to CRS Section 31-15-401 (1)(a)(l).
- e. Litter and Odor - Every owner or occupant of premises within unincorporated Pitkin County shall keep the area within a reasonable vicinity of their Solid Waste storage facility free of Solid Waste materials. Any person or entity transporting Solid Waste within unincorporated Pitkin County shall prevent any Solid Waste from falling or blowing from any Container or collection vehicle and shall use a watertight vehicle with a cover, tarp or other containment to prevent litter and offensive odors in accordance with CRS 42-4-1407.
- f. Containers – All Solid Waste Containers shall be of a sufficient capacity and collected at a frequency to allow Container lids to fully close, to prevent material overflow outside of the Container and to prevent any public health danger, fire danger or inhibition of the public right-of-way. Containers shall be maintained in a clean and sanitary condition. It shall be unlawful for any individual or entity to knowingly designate or represent any Container as having a volume different from said Container’s capacity and to place said Container for collection.
- g. Ashes – Any solid residue left from burning combustible materials shall be placed in a suitable container separate from other Solid Waste.
- h. Recoverable Materials Management – It shall be unlawful for an individual, entity or Registered Hauler to mix Recoverable Materials that have been collected separately with other Solid Waste or to dispose of Recoverable Materials by any means other than at a Qualified Facility.

- i. Recyclable Ownership – All Recyclables placed for collection shall be owned by and be the responsibility of the Residential Customer, Group Account or Commercial Customer until collection has occurred, and then shall become the property and responsibility of the Registered Hauler. No person other than the customer or Registered Hauler shall take possession of any Recyclables placed for collection.
- j. Wildlife Protection Requirements – All Solid Waste shall be placed for collection in compliance with Pitkin County Code 6.44 Wildlife Protection.

***(Ord. 91-1 § 1) §6.16.20 repealed and reenacted Ord. 052-18, 12-05-18***

### **6.16.030: HAULER REGISTRATION**

- a. Registration Requirement – No individual or entity shall haul Solid Waste within unincorporated Pitkin County without first being registered by the County.
- b. Operating Registration – An annual operating registration shall be issued to Solid Waste haulers who meet the minimum requirements of this code and regulations promulgated hereunder. A registration shall not be assignable or transferable, and upon assignment or transfer, shall become null and void. All information reported through the licensing process will be treated as confidential commercial documentation under the Colorado Open Records Act CRS Section 24-72-201. Application submittals shall include:
  - i. A completed application
  - ii. Customer service and facility information on the registration reporting form provided by the County including;
    - An annual report of Trash and Recoverable Material tons collected during the previous calendar year excepting the calendar year preceding the first registration period following the effective date of this code.
    - From all customer accounts
    - From customer accounts within unincorporated Pitkin County using the estimation standard provided by the County for mixed loads
    - Weight estimates using volume-to-weight conversion factors provided by the County
    - List of customer account types, services and Container options available to each account type
    - List of service rates associated with Container options for Residential Customers and Group Account residents who do not receive Extended Collection Service
    - Name and address of disposal facilities and Qualified Facilities where Trash and Recoverable Materials are delivered for disposal, recycling or other management

- iii. Information for each vehicle (including spares) used to collect and transfer Solid Waste within unincorporated Pitkin County including license plate and US Department of Transportation number if applicable.
  - iv. Copy of customer service notices pursuant to this code and regulations promulgated hereunder.
  - v. Insurance certificate(s) verifying minimum insurance coverage and including Pitkin County as an additional insured and appropriate endorsements:
    - Commercial General Liability policy with \$1,000,000 per occurrence; \$2,000,000 general aggregate; \$2,000,000 products/completed operations aggregate including premises/operations, contractual liability, independent contractors and subcontractors, broad form property damage and personal injury coverage.
    - Commercial Automobile policy with \$1,000,000 combined single limit for any vehicle.
    - Endorsements CA 99 48 Broadened Transportation Pollution Liability for vehicles (all vehicles) and MCS 90 for Motor Carrier Policies of Insurance for Public Liability (if any Hazardous Materials will be hauled).
  - vi. Notarized signature on registration application verifying that all vehicles are compliant with applicable local, state and federal safety and inspection requirements, that all vehicles have required minimum insurance coverage and that all vehicle drivers are appropriately licensed.
  - vii. Annual registration fee includes;
    - \$150 for 1 to 5 vehicles (including spares)
    - \$500 for 6 to 10 vehicles (including spares)
    - \$1,000 for 11 or more vehicles (including spares)
  - viii. Maintenance of County registration verification in each vehicle and at the company location listed on the registration application
- c. Operational, Service or Rate Changes – It shall be unlawful for any Registered Hauler to fail to provide written notification to the County Manager or designee prior to the implementation of any change to customer account types, services provided to each account type, rates or surcharges (if any) for its Residential Customers or Commercial Customers, disposal or Qualified Facility used.
  - d. Inspections – All Registered Hauler vehicles are subject to inspection by Pitkin County to verify compliance with this code and regulations promulgated hereunder.
  - e. Records – All Registered Haulers shall maintain accurate and complete records of services and rates by account type, facilities used for all Solid Waste and quantities of Trash and Recoverable Materials pursuant to any direct or underlying activities

associated with the requirements of this code and regulations promulgated hereunder for a period of three (3) years from the end of the calendar year of such records except for paper records of route sheets which shall be maintained for one (1) year from the end of the calendar year of such route sheets.

- f. Audits – All Registered Haulers shall make its records available to the County Manager or designee for audit during regular business hours for the verification of compliance with annual registration submittals, this code and regulations promulgated hereunder. All such information shall be treated as confidential commercial documents under the provision of the Colorado Open Records Act CRS Section 24-72-201 through 24-72-309.
- g. Outstanding Fines – No registration will be issued to any new hauler or renewed to any Registered Hauler in the instance of outstanding fines associated with non-compliance with any Pitkin County ordinance or regulation.

***(Ord. 91-1 § 2) §6.16.30 repealed and reenacted Ord. 052-18, 12-05-18***

#### **6.16.040: HAULER SERVICE REQUIREMENTS**

- a. Collection Service – Registered Haulers shall provide, or verify that customers have provided, at least one (1) Trash Container and Recyclable Bins or Recyclables Container to each customer:
  - i. In offering or arranging for service, Registered Haulers shall provide each customer with a reasonable description of the full range of Trash Container and Recyclables Bin/Container options, volume-based rates and service surcharges where appropriate, and shall provide that customer’s requested Containers and level of service.
  - ii. Each Residential Customer and Group Account resident excepting those provided with Extended Collection Service shall:
    - Select their level of service from at least two (2) Trash Container capacity options that shall include the equivalent of a Small Trash Container
    - Be provided with recycling service equivalent to at least a Small Container (two [2] Recyclable Bins each with approximately 18-gallon capacity would provide this equivalency)
    - Be able to change their Trash Container size and Recyclable Bins/Container size once during the first sixty (60) days of service at no additional delivery cost
- b. Recycling Collection Service – Registered Haulers shall provide Recyclables collection to all Trash Customers regardless of the Trash Container size, receipt of Extended Collection Service or use of a Centralized Collection Facility:

- i. Residential Customer and Group Account recycling service shall be provided at the same frequency as Trash collection unless recycling service includes the equivalent capacity of one (1) Large Recyclables Container in which case Recyclables collection frequency will be at least one-half as frequent as Trash collection.
  - ii. Recycling service for Residential Customers and Group Account residents with Extended Collection Service, Commercial Customers and Centralized Collection Facilities shall include a Container volume capacity that is at least one-half (1/2) of the Trash service capacity based on the size of all Containers and frequency such that Containers are not overloaded, and materials are not accumulated outside of Containers – where Trash compactors are used, the Recyclables Container volume capacity shall be at least one-quarter (1/4) of the empty charge box.
  - iii. Registered Haulers shall give the hauling of Recyclables and Organics (if any) to all customers the same priority as is given to the hauling of Trash.
- c. Organics Collection – It is encouraged but not required that Registered Haulers provide or arrange for the provision of Organics collection from Residential Customers, Group Accounts and Commercial Customers. At such time as the County Manager or designee establishes a minimum list of Organics for collection, Containers shall be provided in general accordance with this code and regulations promulgated hereunder.
- d. Volume-Based Service Rates for Residential Customers and Group Account Residents – Registered Haulers shall charge all Residential Customers and Group Account residents for the total cost of Trash and Recyclables collection based on the Trash Container size and collection frequency. Haulers shall establish all rates and may charge any rate for base unit of service.
  - i. Customers that do not receive Extended Collection Services shall;
    - Be charged a rate that is based on the cost of service for a Small Trash Container with a volume capacity of no greater than 39 gallons.
    - Be charged a rate for each subsequent unit that is no less than the rate for the base unit.
  - ii. Customer rates shall be inclusive of Container charges if Containers are provided by the Registered Hauler and assessed at an additional cost.
  - iii. The customer rates for Trash and Recyclables collection service may be itemized separately for billing purposes, but shall not be reduced to exclude the cost of recycling service, and each customer bill shall



- include a statement identifying the requirement for Recyclables collection using wording provided by Pitkin County.
- iv. It shall be unlawful for a Registered Hauler to divide or diminish customer charges for the provision of Trash and Recyclables collection service at the request of said customer when the customer expressly declines a Recyclables Container or for any other reason.
  - v. In addition to the Volume-Based Service Rate, Registered Haulers may assess a flat monthly fee on Residential Customer and Group Account residents regardless of whether Solid Waste materials are placed for collection during that month to cover fixed operation costs, but any flat fee shall not be more than fifty percent (50%) of the base unit rate for a single Small Trash Container, shall be applied to each residential service level option and both volume-based and flat fees shall be clearly shown on each customer bill.
  - vi. For Group Account residents, Registered Haulers shall provide Trash collection service in a manner that results in a selection by each individual resident of a level of service from the range of volume and rate options, and shall negotiate a written contract confirming compliance with this code and regulations promulgated hereunder unless a temporary exemption is approved.
- e. Service Surcharges – Surcharges assessed on any customer to cover fluctuating operating costs outside of the Registered Hauler’s control such as fuel costs or market-based recycling fees shall not exceed twenty five percent (25%) of the base unit rate for a single Small Trash Container, shall be applied to each residential service level option and all service charges shall be clearly shown on each customer bill.
  - f. Recyclables Contamination – It shall be unlawful for Registered Haulers to dispose of Recyclables by any means other than at a Qualified Facility unless the Recyclables are contaminated with at least twenty five percent by volume (25%) non-Recyclables. Registered Haulers may refuse to service any Recyclables Container with twenty five percent (25%) or more contamination by volume and shall not be required to credit any customer for such refused service or may elect to service same Recyclables Container as a Trash Container and bill the customer accordingly.
  - g. Trash Overloading – It shall be unlawful for Registered Haulers to service an overloaded Trash Container that does not fully close or allows trash outside of the Container unless the Registered Hauler accounts for and bills the customer for all Trash located outside the Container at a rate that is proportional to that customer’s rate for a single Small Trash Container.
  - h. Vehicle Overloading – Registered Haulers shall comply with State of Colorado vehicle weight limitations pursuant to CRS Sections 42-4-507 and 42-4-508.

- i. Customer Education – Registered Haulers shall notify customers of the provisions and guidelines related to this code and regulations promulgated hereunder. All notification and guidelines shall be distributed by electronic mail or hard copy delivery to the customer account address:
  - i. Customers shall receive a written service notification of Solid Waste Container options, Volume-Based Service Rates where appropriate and service surcharges upon initial provision of service, within thirty (30) days prior to any rate change or prior to any customer deadline for notifying Registered Haulers of their intent to change or cancel service and by December 31<sup>st</sup> of each year.
  - ii. Each Residential Customer, Group Account and Commercial Customer shall be provided by their Registered Hauler with guidelines for the safe and effective separation of Recoverable Materials from Trash that is provided by the County and is developed jointly with Registered Haulers.
  - iii. Notices and guidelines for Group Accounts may be sent to the group representative provided that such notice identifies the representative's obligation to notify all individual customers or users of the service of the provision of Recyclables collection service.
- j. Nothing in this code shall be construed as prohibiting Registered Haulers from also establishing rules regarding the safe maximum weight of Containers or other features necessary to protect the safety of customers, employees or others.
- k. Nothing in this subsection shall be construed as prohibiting any Registered Hauler from assessing separate charges for overloaded Trash Containers, unscheduled Trash collections, changing Container sizes after the first sixty (60) days, contaminated Recyclables, Organics or bulky item collections.
- l. Subcontractors or Agents – If a Registered Hauler elects to perform collection of Solid Waste through subcontractors or agents, such relationship shall not relieve said hauler of the responsibility for compliance with this code and the rules promulgated hereunder. Any subcontractor or agent shall also be a Registered Hauler.
- m. Material Delivery to Pitkin County Solid Waste Center – Registered Haulers shall deliver Trash to the Pitkin County Solid Waste Center with exceptions based on mutual approval by both the Registered Hauler and the County Manager or designee for maintaining an environmentally sound method of Solid Waste management or when the Center is closed due to extreme weather or other extenuating circumstances. It shall be unlawful to deposit Trash at any facility that is not appropriately certified, permitted or licensed. All Recoverable Materials shall be delivered to a Qualified Facility.

**6.16.050: RESIDENTIAL CUSTOMER AND COMMERCIAL CUSTOMER REQUIREMENTS**

- a. Collection Service Requirement - Each Residential Customer and Commercial Customer of Solid Waste that originates in unincorporated Pitkin County shall provide his or her own means of collection from a Registered Hauler unless otherwise exempted in Section 2 of this code or regulations promulgated hereunder. Group Accounts with a Trash collection service contract whose effective date precedes the effective date of this code are not required to obtain Recyclables collection service from a Registered Hauler until the end of their current contract term or eighteen (18) months from the code effective date, whichever occurs first.
- b. Trash Container Requirement – It shall be unlawful for any Residential Customer, Group Account or Commercial Customer to fail to provide at least one (1) Trash Container for each individual resident or commercial enterprise.
- c. Recyclables Collection Requirement – Containers for the separation and placement for collection of Recyclables shall be required of all Residential Customers, Group Accounts, Commercial Customers and Centralized Collection Facilities:
  - i. The owner of any group of residences shall establish or have established an on-site collection area and Recyclables Bins/Containers that are convenient to occupants and tenants, and shall secure collection services from a Registered Hauler.
  - ii. Commercial Customers shall provide recycling directly to employees and customers wherever Trash Containers are provided in common areas and at a frequency that prevents Recyclables being mixed in with Trash unless a temporary exemption is approved.
  - iii. Containers may be provided by Residential Customers or Commercial Customers if they are acceptable to the Registered Hauler and compliant with Pitkin County Code 6.44.
  - iv. It shall be the responsibility of all Commercial Customers to ensure that Trash Containers do not contain Recyclable materials and, if so designated by the County Manager or designee, shall not contain Organic materials.
  - v. Commercial Customers shall provide employee training at a frequency and with those means, tools and multi-lingual materials needed to effectively communicate the requirements for complying with this code and regulations promulgated hereunder within a reasonable time of hiring and

at least annually thereafter using tools designated by the Commercial Customer, the Registered Hauler or Pitkin County.

- vi. Special Events shall provide Recycling Containers for employee, staff and public separation of Recoverable Materials so designated by the County Manager or designee; training, signage and direction for such separation; and collection by a registered Hauler in compliance with Pitkin County's Land Use Code 4-30-50(j)(3)(c).
  
- d. Organics Collection – If the County Manager or designee establishes a minimum list of Organic Materials for collection, Residential Customers, Group Accounts, Commercial Customers and Centralized Collection Facilities shall provide Containers and collection service from a Registered Hauler. Nothing in this subsection is intended to negate the requirements of any other code or regulation governing the collection of any type of Organic Material.
  
- e. Customer Recycling Exemptions – An exemption from the recycling requirements of this code and regulations promulgated hereunder may be granted upon receipt of a written request from an individual, entity or Registered Hauler and approval by the County Manager or designee. Exemptions may be either short-term for up to twelve (12) months or long term for a maximum period of five (5) years. Exemptions may completely waive or modify the recycling requirements. The County Manager or designee may issue short- or long-term exemptions for a group of Residential Customers, Group Accounts or Commercial Customers. An exemption may be approved for a Residential Customer, Group Account or Commercial Customer who:
  - i. Whose premises has extreme space constraints
  
  - ii. Whose Registered Hauler cannot reasonably provide year-round Recyclables collection service to that individual's or entity's premises
  
  - iii. Uses a Recyclable Container space that is not safely serviceable, which shall mean significantly less safe to service than the customer's Trash Container
  
  - iv. Self-hauls Recyclables to a Qualified Facility
  
  - v. Uses a different Registered Hauler for the collection of Trash and Recyclables
  
  - vi. Does not generate recyclables (Residential Customer) or a who does not generate Recyclables equal to at least one-half (1/2) of the volume of Trash service based on the Trash Container size and collection frequency (Commercial Customer)

- vii. Will violate another Pitkin County code or regulation, or state or federal regulation if required to separate Recyclables for collection

***(Ord. 91-1 § 4) §6.16.50 repealed and reenacted Ord. 052-18, 12-05-18***

**6.16.060: VIOLATION AND PENALTIES**

- a. Upon the determination of the Pitkin County Public Works Department, Environmental Health Department, Sherriff's Office, Fire Marshal or other sworn officer that the owner of any parcel of property within unincorporated Pitkin County has permitted the dumping, deposition or accumulation, or blowing of Solid Waste on public or private property or from a Container or collection vehicle, which shall be a Class 2 petty offence pursuant to CRS 30-15-401, a violation notice will be issued, clean-up actions may be taken and fines assessed.
- b. Residential Customer, Group Account, Commercial Customer and Centralized Collection Facility violations of this code and regulations promulgated shall be assessed according to the following schedule of fines:

1. 1 <sup>st</sup> Offense	\$500
2. 2 <sup>nd</sup> Offense	\$750
3. 3 <sup>rd</sup> and Following Offenses	\$1,000

- c. Wildlife Protection Violations – Additional penalties for violations of Pitkin County Code 6.44 Wildlife Protection may be assessed per that regulation.
- d. Registered Hauler Violations – It shall be a misdemeanor for any individual or entity to haul Solid Waste pursuant to this code and any regulation promulgated hereunder in unincorporated Pitkin County without first having obtained a registration for operation and fully complying with the requirements of this code and the regulations promulgated hereunder. Each separate collection service at each customer location or deposit at the Pitkin County Solid Waste Center or other facility without a registration shall constitute a violation of this requirement and may be punishable by ninety (90) days in the County jail in addition to the following schedule of monetary fines:

1 <sup>st</sup> Offense	\$500
2 <sup>nd</sup> Offense	\$1,000
3 <sup>rd</sup> Offense	Suspension or Revocation of Hauler Registration

- e. Any further violations and penalties as set forth in the Manager's Rules, Section 6 in Appendix 1.

**§ 16.060 added Ord. 005-10) §6.16.60 repealed and reenacted Ord. 052-18, 12-05-18**

**6.16.070: PROCEDURES FOR ADOPTION OF REGULATIONS AND STANDARDS**

- a. The Pitkin County Manager or designee is authorized to adopt rules and regulations necessary to implement this code. Any regulation shall be subject to approval of the Board of County Commissioners and shall be made subject to a public notification, appeal and approval process.
- b. The Pitkin County Manager is authorized to establish standards and guidelines necessary to effectuate the implementation of this code and regulations promulgated hereunder. The standards and guidelines will be developed after consultation with Registered Haulers and the public, will be subject to a public notification process and will be available for review at the County Manager's office. Registered Haulers, Residential Customers, Group Accounts and Commercial Customers shall comply with standards and guidelines, which will be reviewed regularly by the County and amended as appropriate.

#### **6.16.080: DUMPING ON PUBLIC OR PRIVATE PROPERTY—CITATION—PENALTY**

Should any section or sections of this code be determined by a court of competent jurisdiction to be unconstitutional or invalid for any reason, then that section or sections shall be deemed severable and the remaining provisions of this code shall continue in full force and effect. *(Ord. 91-1 § 7—9) §6.16.80 repealed and reenacted Ord. 052-18, 12-05-18*

#### **6.16.090: EFFECTIVE DATE**

The effective date of this code and regulations promulgated hereunder shall be January 1, 2019.

*(§ 6.16 ord. 91-1 § 10, ord. 01-05) §6.16.090 added Ord. 052-18, 12-05-18*

#### **6.16.100: PUBLICATION**

The Ordinance adopting this code, shall be published upon final adoption, by title and short summary in the Aspen Times Weekly and full text posted on the Pitkin County Website. The code.

*§ 6.16.100 added Ord. 052-18, 12-05-2018*

*Title 6.16 repealed and reenacted in its entirety Ord. 052-18, 12-05-2018*

#### **6.16.110: CONSTRUCTION AND DEMOLITION DIVERSION REGULATION**

This section shall be known as Construction and Demolition Diversion Regulation. The purpose is to achieve Reduction and/or Recycling of Debris generated by Construction and Demolition Projects, thereby diverting debris from Disposal Facilities, saving landfill space and conserving natural resources consistent with Pitkin County's core focus area to Conserve Natural Resources and Environment of the Flourishing Natural and Built Environment Strategic Plan.

## 6.16.120: DEFINITIONS

The following words, terms and phrases when used in this code shall have the meanings ascribed to them in this Section:

- A. **“Building Official”** is the Building Official of the Pitkin County Community Development Department or his/her authorized representative
- B. **“Construction and Demolition Debris (C&D waste)”** is solid waste generated by or resulting from construction or demolition-related activities including, but not limited to, building, construction, deconstruction, demolition, improvement, reconstruction, remodeling, renovation, repair, or site clean-up.
- C. **“County Manager”** is the Pitkin County Manager.
- D. **“Diversion Compliance Deposit (DCD)”** is a cash deposit made to the Pitkin County Landfill by permittees who wish to do construction and demolition projects within unincorporated Pitkin County. The DCD is only required in situations where the permitted construction project meets the standards defined in the MANAGERS RULES Section 2.a. The DCD is calculated using the formula in MANAGERS RULES Section 2.b. The DCD is refundable; the amount of the DCD which shall be refunded is defined in Section 2 of the MANAGERS RULES. The DCD only applies to the General/Number 1 permit for the project.
- E. **“Diversion Report”** is an electronically submitted report to the Pitkin County Landfill by any permittee who has been required to pay a Diversion Compliance Deposit for their permitted work in unincorporated Pitkin County. This report is due at the end of work on the project and must be submitted before a Final Building Inspection will be done on the permitted work. The Diversion Report will be used by Pitkin County Staff to determine if the permittee met the requirements set forth in Sections 1, 2, and 3 of the MANAGERS RULES. The Diversion Report must include receipts (or copies of receipts) for ALL waste produced by the permitted work - these receipts must include the date the material was removed from the site and location of disposal, sale, or reuse. The Diversion Report must include the weight (in tons) of all solid waste landfilled, the total weight of each type of Recoverable Material disposed of in any manner in any location, and how many loads of landfilled waste from the permitted project were classified as **Tier 4** waste by the Pitkin County Landfill (see Section 3 of the MANAGERS RULES).
- F. **“Final Building Inspection”** The final building inspection done by the Community Development Department of Pitkin County.
- G. **“Hazardous Materials”** are the same as defined in the United States Hazardous Materials Transportation Act (49 USC Section 5101).
- H. **“Permit”** means a permit issued by the Community Development Department for construction, deconstruction, demolition, excavation, grading, improvement, land clearing, reconstruction, remodeling, renovation, repair, site clean-up, or any activity relating to any of these activities.



- I. **“Permittee”** means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any entity or person whatsoever that applies for a General/Number 1 Permit.
- J. **“Qualified Facility”** is a facility that arranges for or causes the recovery of one (1) or more materials including items for reuse, remanufacturing, reclaiming, recycling, mulching, composting, or other action that allows the resource to be recovered, and is compliant with any local, state and federal standards that may be established to regulate or designate such facilities.
- K. **“Recycling Facility”** is a facility that collects specific materials for reuse or recycling. Recycling facilities are identified in the Attachment A.
- L. **“Recoverable Material(s)”** are the materials listed in Section 1.a. of the MANAGERS RULES which define how this section of the code will be executed. This list may be changed at any time by Pitkin County Solid Waste Center Staff.
- M. **Recoverable Materials Diversion Acknowledgement Form** is a form that must be signed by the permittee for any project meeting the standards defined in Section 2.a. of the MANAGERS RULES. This form acknowledges Pitkin County’s diversion requirements and the consequences of failure to meet these requirements (detailed in Section 2 of MANAGERS RULES) .
- N. **“Reuse” and “Reused Onsite”** means any action that involves the beneficial use of materials at the location of origin such as the construction of other structures, fencing, decorative or other approved use. Written documentation of reuse must be included in the Diversion Report if the permittee wishes to have the weight of these materials included in the assessment of their compliance with Section 2 of MANAGERS RULES.
- O. **“Solid Waste Landfill”** means a permitted disposal facility that accepts solid waste for land disposal.
- P. **“Solid Waste Manager”** is the Pitkin County Solid Waste Manager.

#### 6.16.130: REQUIREMENTS

- A. Sections 1 and 3 of MANAGERS RULES shall apply to all material brought to the Pitkin County Landfill.
- B. Section 2 of MANAGERS RULES shall apply to permitted construction, renovation, building repair, deconstruction, earthmoving, or demolition projects in unincorporated Pitkin County. The Community Development Department will not issue a permit until the permittee has completed a Recoverable Materials Diversion Acknowledgement Form and paid a Diversion Compliance Deposit to the Pitkin County Landfill.
- C. At completion of the project but before Final Building Inspection, the permittee shall submit the Diversion Report as defined above. Final Building Inspection of

the permitted work may not occur until the Diversion Report is completed and submitted as verified by the Solid Waste Manager. If the Diversion Report is not completed and submitted, Final Building Inspection will not occur.

- D. Once the Diversion Report is completed and submitted, it will be reviewed by Pitkin County Landfill Staff. If the permittee met all of the diversion requirements set forth in MANAGERS RULES Sections 1, 2, and 3 as determined by Pitkin County Landfill Staff based on documentation provided by the permittee in the Diversion Report then the entire Diversion Compliance Deposit shall be returned to the permittee. If the diversion requirements were partially met, Pitkin County Landfill Staff will use MANAGERS RULES Section 2 to determine whether the permittee is eligible for a partial Diversion Compliance Deposit refund.
- E. In the event that a permittee has failed to submit a complete Diversion Report within two years of signing a Recoverable Materials Diversion Acknowledgement Form, the Permittee shall apply for an extension to the Recoverable Materials Diversion Acknowledgement Form or lose 100% of their Diversion Compliance Deposit.
- F. If set forth by resolution of the Pitkin County Board of County Commissioners, the Permittee shall pay a non-refundable administrative fee sufficient to compensate the County for all expenses incurred in administering this code.

**6.16.140: STANDARDS, GUIDELINES AND CRITERIA.** The Solid Waste Manager will establish and/or adopt standards, guidelines, and criteria consistent with this Section and reasonably necessary to achieve the objectives of this Code. These rules and procedures are detailed in the MANAGERS RULES adopted in tandem with this code.

**6.16.150: INSPECTIONS.** The Solid Waste Manager, or designee, may make such inspections as he/she may deem necessary to determine Permittee's compliance with the Code

**6.16.150 APPEALS.** Appeals of the rulings of the Solid Waste Manager relating to approval of a Diversion Report shall be filed with the Pitkin County Manager's office.

*§'s 6.16.110-150 added [Ord. 015-2020](#), 04-22-2020*

## **6.20: EMERGENCY TELEPHONE SERVICE SYSTEM IN PITKIN COUNTY**

### SECTIONS:

6.20.010 AUTHORITY

6.20.020 CHARGE IMPOSED

6.20.030 COLLECTION OF CHARGES

### **6.16.100: PUBLICATION**

The Ordinance adopting this code, shall be published upon final adoption, by title and short summary in the Aspen Times Weekly and full text posted on the Pitkin County Website. The code goes into effect 30 days after final publication and posting or otherwise as stated in Section 6.16.090 of this code.

#### **6.20.010: AUTHORITY**

The Chairman of the Board of County Commissioners is authorized to execute a revised Intergovernmental Agreement with the City of Aspen, Town of Snowmass Village, Town of Basalt, Aspen Fire Protection District, Snowmass-Wildcat Fire Protection District, Basalt and Rural Fire Protection District, Aspen Ambulance District, and the Carbondale and Rural Fire Protection District concerning the continued implementation of an “Enhanced 9-1-1” Emergency Telephone Service in order to maintain an emergency telephone service system in Pitkin County, Colorado. **(Res. 90-22 § 1; (part) Res. 032-09; Ord. 005-10)**

#### **6.20.020: CHARGE IMPOSED**

There is imposed, pursuant to Colorado Revised Statutes, Section 29-11-100.5 through Section 29-11-107, et seq.2009 , as amended, upon all telephone exchange facilities within Pitkin County and portions of Eagle and Gunnison Counties, an emergency telephone charge in an amount not to exceed one dollar and twenty-five cents (\$1.25) per month, , as approved by the Public Utilities Commission. Upon recommendation of the Emergency Telephone Service Authority, the Board of County Commissioners may, by resolution, raise or lower the emergency telephone charge as approved by the Public Utilities Commission.

The Aspen-Pitkin County Emergency Telephone Service Authority is authorized to impose an emergency telephone charge for those areas within its jurisdiction for which emergency telephone service will be provided, which charge shall in an amount not to exceed one dollar and twenty-five cents (\$1.25) per month. **(Res. 90-21 § 2; (part) Res. 032-09; 005-10)**

#### **6.20.030: COLLECTION OF CHARGES**

Telephone service suppliers providing telephone service in Pitkin County are authorized to collect the emergency telephone charge imposed by this chapter in accordance with Colorado Revised Statutes, 29-11-100.5 through Section 29-11-107 et seq., 2009, as amended. **(Res. 90-22 § 3; Res. 032-09; Ord. 005-10)**

### **6.24: EMERGENCY TELEPHONE SERVICE SYSTEM IN ASPEN AMBULANCE DISTRICT**

#### SECTIONS:

6.24.010 AUTHORITY

6.24.020 CHARGE IMPOSED

## 6.24.030 COLLECTION OF CHARGES

### 6.24.010: AUTHORITY

The Chairman of the Aspen Ambulance District is authorized to sign a revised Intergovernmental Agreement with the City of Aspen, Town of Snowmass Village, Town of Basalt, Aspen Fire Protection District, Snowmass-Wildcat Fire Protection District, Basalt and Rural Fire Protection District, , and the Carbondale and Rural Fire Protection District in order to maintain an emergency telephone service system in the Aspen Ambulance District, Colorado. ***(Res. 90-21 § 1; (part) Res. 032-09; Ord. 005-10)***

### 6.24.020: CHARGE IMPOSED

There is imposed, pursuant to Colorado Revised Statutes, Section 29-11-100.5, through 29-11-107, et seq. 2009, as amended, upon all telephone exchange facilities within the Aspen Ambulance District, an emergency telephone charge in an amount not to exceed one dollar and twenty-five cents (\$1.25) per month, as approved by the Public Utilities Commission. Upon recommendation of the Emergency Telephone Service Authority, the Board of County Commissioners of Pitkin County, Colorado, acting as the Board of the Aspen Ambulance District, may, by resolution, raise or lower the emergency telephone charge, as approved by the Public Utilities Commission.

The Aspen-Pitkin County Emergency Telephone Service Authority is authorized to impose an emergency telephone charge for those areas within its jurisdiction for which emergency telephone service will be provided, which charge shall in an amount not to exceed one dollar and twenty-five cents (\$1.25) per month. ***(Res. 90-21 § 2; (part) Res. 032-09; Res. 005-10)***

## 6.24.030: COLLECTION OF CHARGES

Telephone service suppliers providing telephone service in the Aspen Ambulance District are authorized to collect the emergency telephone charge imposed by this chapter in accordance with Colorado Revised Statutes, 29-11-100.5 through Section 29-11-107 et seq., 1973, as amended. ***(Res. 90-21 § 3 (part) Res. 032-09; Ord. 005-10)***

## 6.28: WASTE WATER TREATMENT SYSTEMS – REPEALED

[Click here to view the complete Onsite Waste Water Treatment System Code](#)  
***(Repealed and reenacted Ord. 030-2014, 08-27-2014; Repealed Ord. 050-2018)***

## 6.29: GRAYWATER TREATMENT SYSTEM REGULATIONS

[Click here to view the complete Graywater Treatment System Regulations](#)

***(enacted Ord. 012-2018, 02-14-2018)***

## 6.32: NOXIOUS WEEDS

[Click here to view the complete Pitkin County Noxious Weed Management Plan.](#)  
(Ord. 99-48 § 7; Ord. 002-10; Ord. 035-2018 (part) 08-08-2018; Ord. 004-2019)

## 6.36: NOISE ABATEMENT

Sections:

- 6.36.010 Declaration of policy.
- 6.36.020 Definitions and standards.
- 6.36.030 Noises prohibited.
- 6.36.040 Use district noise levels--Maximum permissible sound levels.
- 6.36.050 Sound level measurement.
- 6.36.060 Exemptions.
- 6.36.070 Permits/Variances.
- 6.36.080 Appeals for permit denial.
- 6.36.090 Motor vehicle noise.
- 6.36.100 Enforcement responsibility.
- 6.36.110 Violations--Penalties.
- 6.36.120 Court ordered abatement.

### 6.36.010 Declaration of policy.

The Board of County Commissioners finds and declares that noise is a significant source of environmental pollution that represents a present and increasing threat to the public peace and to the health, safety and welfare of the residents of Pitkin County and its visitors. These findings and declarations are supported by the Pitkin County Strategic Plan and Article 10 of the Pitkin County Ecological Bill of Rights.

Noise has an adverse effect on the psychological and physiological well being of persons, thus constituting a present danger to the public's health, economic and aesthetic well being of the County. Accordingly, it is the policy of the Board to provide standards for permissible noise levels in various areas and manners and at various times and to prohibit noise in excess of those levels. Further, it is the policy of the county to permit only that development which will not generate noise which would adversely impact land uses or occupants thereof.

### 6.36.020 Definitions and Standards.

All terminology used in this chapter and not defined below shall be in conformance with applicable American National Standards Institute publications (ANSI) SI.4-1971 or its successor publications. For the purposes of this chapter, certain words and phrases used are defined as follows:

"A' weighted sound pressure level" means the sound pressure level, as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

"Ambient sound pressure level" means the sound pressure level or the all-

encompassing noise associated with a given environment usually a composite of sounds from many sources.

"Business district" means an area zoned as defined in the Pitkin County Land Use Code, including but not limited to areas designated B-1, B-2, PUB, T, SKI-REC, P-1, VC and as such designations may be amended.

"Construction activities" means any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

"Construction District" A "floating district," for the purposes of this chapter, is defined as a site of ongoing construction activity. This designation will be in effect only for the duration of said activity or for the dates of any applicable building permit or special review approval at a designated site, whichever is shorter. This designation may occur in any of the zone districts as defined in the Pitkin County Land Use Code.

"Decibel" means logarithmic and dimensionless unit of measure often used in describing amplitude of sound. Decibel is symbolized by the letters "dB."

"Department" means the Pitkin County Environmental Health Department.

"Emergency vehicle" means a motor vehicle authorized to have sound warning devices such as sirens and/or bells and/or air horns which may lawfully be used when responding to an emergency or during a police activity.

"Emergency work" means work made necessary to restore property to a safe condition following an unusual event, or work required to protect the public's health and persons or property from exposure to danger. This includes, but is not limited to: road cleaning, snow, ice, mud and debris removal from-public rights-of-way.

"Grounds maintenance equipment" means that equipment necessary to maintain yards, parks and lots which includes but is not limited to lawn mowers, leaf blowers, edgers, trimmers, tillers and chain saws.

"Industrial district" means an area zoned as defined in the Pitkin County Land Use Code under the subheading of I and any special review approval as an industrial use.

"Motor vehicle" means any vehicle which is propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, buses, campers, motorcycles, mini bikes, mopeds, semi-trailers, go-carts, snowmobiles and racing vehicles.

"Muffler" means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

"Noise" means a sound which is measured as the sound pressure level in decibels (dB) which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

"Nuisance" means the doing of or the failure to do something which allows or permits noise to be emitted from any source(s) in excess of the standards of this chapter.

"Person" means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation, state or federal government agency, district, and any officer or employee thereof.

"Plainly audible noise" means any noise for which the information content of the noise is unambiguously transferred to the listener, such as, but not limited to, understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

"Premise" means any building, structure, land, utility or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

"Property boundary" means an imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person and separates real property from the public premise, or in multiple dwelling units from adjoining units, such as a wall between two apartments.

"Public right-of-way" means any street, avenue, boulevard, highway, alley, sidewalk, mall or similar place which is owned or controlled by a public governmental entity.

"Residential district" means an area zoned as defined in the Pitkin County Land Use Code, including, but not limited to, areas designated R-6, R-15, R-15A, R-15B, R-30, MHP, AH, AH/PUD, AR-2, AR-10, FPV-O, LIR-35, RS-20, RS-G, CD-PUD, RS-30, RS-35, RS-160, RMF, AC/REC-2, TR-1, TR-2, UFV-O, VR, RR, U and as such designations may be amended from time to time.

"Sound" means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distance points.

"Sound level meter" means an instrument, including a microphone, amplifier, RMS detector and integrator, time averager, output meter and/or visual display and weighing networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level when properly calibrated and is of Type 2 or better as specified in ANSI Publication S1.4-1971 or its successor publications.

"Sound pressure" means an instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

"Sound pressure level" means twenty (20) times the logarithm to the base ten (10) of the ratio or the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter ( $20 \times 10^6$  newtons/meter<sup>2</sup>), and is expressed in decibels.

"Special Purpose Zone Districts and Designations" PUB, T, U. May be applied anywhere in unincorporated Pitkin County.

"Special Review" For a land use allowed under the special review designation, the allowable noise level will be governed by the predominate use of that zone as it exists prior to special review use being allowed to function.

"Special Event" means an organized group activity at one or more specified locations which take place over a single day or several consecutive days at which a group of persons may gather, with or without the payment of an admission charge.

"Use district" means those districts established by the Pitkin County zoning ordinance and those established by this chapter.

### **6.36.030 Noises prohibited.**

A. General Prohibitions. In addition to the specific prohibitions outlined in subsection B of this section, and Sections 6.36.040 and 6.36.080, it is unlawful for any person to make, continue, or cause to be made or continued any noise as defined in Section 6.36.020, within the unincorporated areas of Pitkin County.

B. Specific Prohibitions. The following acts are declared to be in violation of this chapter.

1. Horns and Signaling Devices. Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within unincorporated areas of Pitkin County, except as a danger warning signal, or the sounding of any such signaling device for an unnecessary and unreasonable period of time, which period is deemed herein to be any time after which the danger being warned against is clearly passed.

2. Electronic producers of sound and similar devices.

- a. Using, operating or permitting the use or operation of any radios, television sets, musical instruments, tape players, record players, computers, compact disc players, cellular phones or other machine or device for the production or reproduction of sound, except as provided for in subsection (B)(3) of this section, in such a manner to violate Section 6.36.040;



b. The operating of any such device in such a manner as to be plainly audible at twenty-five (25) feet from such device when operated within a vehicle parked or moving on a public right-of-way.

### 3. Public Loud Speakers.

a. Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position, or mounted upon any vehicle; located in or upon private property or upon any street, alley, sidewalk, mall, park, place or any public property for the purpose of entertainment, commercial advertising, giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages or persons in such a manner as to violate Section 6.36.040 unless a permit as provided in Section 6.36.070 is first obtained.

b. This subsection does not apply to any person who is participating in a parade for which a permit has been issued by the County.

4. Animals. Owning, keeping, possessing or harboring any animal or animals, including birds, which by frequent or habitual noise making, violate(s) Section 6.36.040. The provisions of this section shall apply to all public and private facilities, including any animal pounds, veterinary hospitals and dog sled operations which hold or treat animals.

5. Construction Activities. Any and all activity incidental to the erection, demolition, altering, assembling, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating, filling, landscaping, use of power equipment and the delivery, loading or unloading of materials and equipment as follows:

a. In residential, business and industrial districts between the hours of seven p.m. and seven a.m. Monday through Saturday;

b. In all districts on Sundays and federally recognized holidays.

c. In any defined districts where such operation exceeds the sound level limits for a floating construction district as set forth in Section 6.36.040;

d. This section shall not apply to emergency work as defined in Section 6.36.020, but such work shall be exempted only for the minimum period of time necessary to conclude the emergency repair(s) and restore property to a safe condition.

e. Interior "quiet" work such as painting and cleaning in a completely enclosed structure is permitted at all times and in all zones, Monday through Sunday.

6. Racing Event. Permitting any motor vehicle endurance or racing event in any use district in such a manner as to violate Section 6.36.040.

7. Defect in Vehicle. Operating or permitting to be operated or used any truck, automobile, motorcycle, or other motor vehicle which, by virtue of intentional modification, disrepair, lack of maintenance or fact or manner or operation, violates Section 6.36.090.

8. Refuse Compacting Vehicles. The operating or causing or permitting to be operated or used any refuse compacting vehicle which creates a sound pressure level in excess of seventy-five (75) dB(A), at twenty-five (25) feet from the vehicle during loading, unloading and compaction cycles.

9. Bells, Alarms and Fixed Sirens. Sounding, operating or permitting to be sounded, or operating an electronically amplified signal from any burglar alarm, vehicle alarm, bell, chime or clock, horn or siren which exceeds the standards set forth in Section 6.36.040 for more than six (6) aggregated minutes in any one hour.

10. Recreational Vehicles. Operating a recreational vehicle such as, but not limited to, a dirt bike, off highway vehicle (OHV) or snowmobile in a manner which violates Colorado Revised Statute Title 25-12-110.

11. Mufflers Required.

a. It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order.

b. It is unlawful for any person operating a motor vehicle to use a cut-out, by-pass or similar muffler elimination device.

12. Motor or Motor Vehicle Repairs or Testing. The commercial or private repairing, building, rebuilding or testing of any truck, automobile, motorcycle or other motor or motor vehicle including grounds maintenance equipment within the unincorporated areas of the county shall be subject to the maximum permissible sound pressure level for the district in which the sound is located.

13. Fireworks. The discharge of fireworks or other similar explosive devices at any time or in any manner except as expressly allowed under a permit issued pursuant to Section 6.36.070.

**6.36.040 Use district noise levels--Maximum permissible sound levels.**

No person shall operate, or permit to be operated, on public or private property any stationary source of sound in such a manner as to create a sound pressure level which exceeds the limits set forth for the receiving land use category identified as the "Use District" for more than six (6) minutes in sixty (60) aggregate minutes which may be measured at or within the real property boundary of the receiving land use.

Use District:  
Night 7p.m. to 7a.m.

Day 7a.m. to 7p.m.

	Night	Day
Residential	50 dB(A)	55 dB(A)
Business	60 dB(A)	65 dB(A)
Industrial	60 dB(A)	65 dB(A)
Construction	Not Allowed	80 dB(A)

When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between the different land use categories. This provision shall not apply to construction activities holding a valid building permit issued by Pitkin County when the least restrictive use is a floating construction district, in which case the limits applicable to the construction district shall apply, notwithstanding the boundaries of the more restrictive uses, because of the temporary nature of the construction use. For construction activities not holding a valid building permit the land use district levels apply.

#### **6.36.050 Sound level measurement.**

Sound level measurements shall be made with a sound level meter using the "A" weighing scale, in accordance with standards promulgated by the American National Standards Institute or other reasonable standards tested and adopted by the Pitkin County Environmental Health Department.

#### **6.36.060 Exemptions.**

The following uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals, warning devices and emergency pressure relief valves, except as provided for in Section 6.36.030(B)(1);
- B. Noise resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- C. Noise resulting from emergency work, as further provided for in Section 6.36.030(B)(5)(d);
- D. Noise resulting from activities of a temporary duration for which a permit has been approved by the Director of the Pitkin County Environmental Health Department in accordance with Section 6.36.070.

#### **6.36.070 Permits/Variances.**

Applications for a permit/variance for relief from noise restrictions in this chapter on the basis of undue hardship or special circumstances may be made to the Pitkin County Environmental Health Department. Any permit/variance granted by the Director of the Pitkin County Environmental Health Department or an authorized representative shall

contain all conditions upon which the permit/variance has been granted, including, but not limited to, the effective date(s), time(s) of day, location, sound pressure level, notification of proximate neighbors as determined appropriate by the Department considering the possible impacts resulting from the activity a minimum of 5 days prior to the event, or equipment limitation. The permit/variance may be granted upon good and sufficient showing:

- A. That additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with this chapter; or
- B. That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this chapter; or
- C. That no reasonable alternative is available to the applicant.

The Director of the Pitkin County Environmental Health Department may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

#### **6.36.080 Appeals for permit/variance denial.**

If an application for a permit/variance for relief from noise restrictions in this chapter is denied by the Director of the Pitkin County Environmental Health Department or an authorized representative, the applicant may appeal to the Pitkin County Board of County Commissioners.

#### **6.36.090 Motor vehicle noise.**

No person shall drive, operate or knowingly permitting to be driven or moved, a motor vehicle or combination of vehicles at any time in such a manner as to exceed the following noise limits for the category of motor vehicle shown below. Noise shall be measured at a distance of at least fifty (50) feet or more from the center of the lane of travel or fifty (50) feet or more from a vehicle designed for off highway use with the sound level meter at least four feet above the immediate surrounding surface. Sound level recordings for mobile sources may be instantaneous and not required to be over a set period of time.

Sound Pressure Level dB(A)

Type of Vehicle	Noise level for speeds of 35 mph or less	Noise level for speeds over 35 mph
Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more, or by any combination of vehicles towed by such motor vehicle	86 dB(A)	90 dB(A)
Any other motor vehicle (less than 10,000 pounds) or any combination of vehicles towed by any motor vehicle	82 dB(A)	86 dB(A)

Vehicles equipped with engine brakes, exhaust brakes or similar speed control systems must be equipped with a functional muffler.

**6.36.100 Enforcement responsibility.**

A. The Director of the Pitkin County Environmental Health Department is the designated noise ordinance enforcement officer for Pitkin County. The department shall have primary, but not exclusive, enforcement responsibility for this chapter. The Director may appoint deputy noise enforcement responsibility for this chapter. The Director may appoint deputy noise enforcement officers from among members of the department, members of the Pitkin County Sheriff's department or other County departments as appropriate. The Director shall be responsible for creating and administering a program of enforcement certification for the deputies covering the terms of this chapter and the operation of the instruments used in enforcement activities.

B. For purposes of this chapter, measurements with sound level meters shall be when the wind velocity is less than ten (10) miles per hour with a windscreen in place on the microphone.

C. In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise from all sources at the time and place of such sound level measurement.

D. This chapter is not intended to apply to the operation of aircraft or to other activities which are subject to federal law with respect to noise abatement.

**6.36.110 Violations--Penalties.**

Any person violating any provision of this chapter may be punished by a fine of not more than six hundred dollars (\$600.00), and/or by imprisonment for a period of not more than

ten (10) days. Such fine and imprisonment is at the discretion of the court. Each day this chapter is violated shall constitute a separate offense.

***(Repealed and Reenacted Ord. 018-2016, 07-26-2017)***

### **6.36.120 Court ordered abatement.**

Violations of Sections 6.36.030 through 6.36.090 are deemed and declared to be a nuisance, and as such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction. Abatement may also be ordered if proven there is a violation of issued permits/variances or a violation of conditions listed in Special Events and/or land use approvals.

## **6.40: SMOKING**

### **SECTIONS:**

- 6.40.010 SHORT TITLE
- 6.40.020 LEGISLATIVE INTENT AND PURPOSES
- 6.40.030 DEFINITIONS
- 6.40.040 SMOKING PROHIBITED IN PUBLIC PLACES
- 6.40.050 REGULATION OF SMOKING IN PLACES OF EMPLOYMENT
- 6.40.060 POSTING OF SIGNS
- 6.40.070 EXCEPTIONS
- 6.40.080 ENFORCEMENT

### **6.40.010: SHORT TITLE**

This chapter shall be known as and it may be cited as the “Pitkin County Clean Indoor Air Act.” ***(Ord. 95-17 § 1 (part): prior code Title III § 5-0)***

### **6.40.020: LEGISLATIVE INTENT AND PURPOSES**

The board of county commissioners finds that the smoking of tobacco, or any other weed or plant, is a form of air pollution, a material annoyance, inconvenience, nuisance, discomfort and a health hazard to those who are present in confined spaces, and in order to serve public health, safety and welfare the declared purpose of this article is to control and limit the smoking of tobacco or any weed or plant, in public places and places of employment as hereinafter set forth. The board of county commissioners intends that the restrictions and limitations of this chapter be viewed as minimum standards, and should not be construed as limiting in any way the authority of persons in control of a public place from prohibiting smoking within their establishment altogether. ***(Ord. 95-17 § 1 (part): prior code Title III § 5-1)***

### **6.40.030: DEFINITIONS**

As used in this chapter:

“Bar area” means an area primarily devoted to serving alcoholic beverages and within which the service of food is only incidental to the consumption of such beverages. Although the restaurant may contain a bar, the “bar area” shall not include the restaurant/dining area. The Pitkin County board of county commissioners (or its

designee) may extend the bar area to encompass a larger area upon a demonstration by the owner of an establishment that such area is primarily devoted to the serving of alcoholic beverages (such as a bar room, cocktail lounge or similar facility) and the service of food is only incidental to the consumption of such beverages.

“Dining area” means any enclosed area containing a counter or tables upon which meals are served.

“Employee” means any person who is employed by any employer in consideration for wage, salary or other monetary compensation or profit.

“Employer” means any person, partnership or corporation, including municipal corporation or other legal entity, who employs the services of any person(s) in Pitkin County.

“Place of employment” means any interior area under the control of an employer which employees normally frequent during the course of employment, including, but not limited to, work area, employee lounges, conference rooms, and employee cafeterias.

“Public place” means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to: banks, educational facilities, health facilities, hospitals, jails, theater, auditorium, public transportation facilities, reception areas, lobbies, food service establishments, retail stores, retail service establishments, galleries, and waiting rooms.

“Smoking” means the combustion of any cigar, cigarette, pipe, or similar article, using any form of tobacco or other combustible substance in any form.

“Theater and auditorium” means any enclosed area devoted to or used for exhibiting motion pictures or presenting theatrical performances, lectures or like entertainment. **(Ord. 95-17 § 1 (part): prior code Title III § 5-2)**

#### **6.40.040: SMOKING PROHIBITED IN PUBLIC PLACES**

Smoking is prohibited in public places, including but not limited to the following:

A. Elevators. Smoking is prohibited and is unlawful within elevators in buildings generally used by or open to the public, including elevators in office, hotel and multi-family buildings.

B. Hospitals and Health Care Facilities. Smoking is prohibited and is unlawful in public areas of health care facilities and hospitals, as defined in Section 25-3-101, C.R.S., as it may be amended from time to time, including waiting rooms, public hallways and lobbies.

C. Public Meeting Rooms. Smoking is prohibited and is unlawful in hearing rooms, conference rooms, auditoriums, chambers, and places of public assembly in which public business is conducted, which requires or provides direct participation or observation by the general public.

D. Public Restrooms. Smoking is prohibited and unlawful in public restrooms.

E. Hallways. Smoking is prohibited in the hallways of public places.

F. Food Service Establishments. Smoking is prohibited and is unlawful in the dining area of every publicly or privately owned food service establishment, including

but not limited to a coffee shop, cafeteria, short-order cafe, luncheonette, sandwich shop, soda fountain, restaurant, or other eating establishment serving food; except under the following circumstance where smoking may be permitted at the option of the owner of the establishment:

1. Any enclosed rooms which are being used for private functions;
2. The smoking of cigarettes in any "bar area" as defined in Sections 6.40.030 and 6.40.070(B). The smoking of pipes and cigars shall not be permitted in such areas.

G. Retail Stores. Smoking is prohibited and is unlawful in all public areas of retail stores, including grocery stores, retail service establishments, retail food production establishments, and drug stores.

H. Hotel and Motel Lobbies.

I. Theaters and Auditoriums. Smoking is prohibited in all theatres or nightclubs except when these are used for private functions. ***(Ord. 95-17 § 1 (part): prior code Title III § 5-3)***

#### **6.40.050: REGULATION OF SMOKING IN PLACES OF EMPLOYMENT**

The following regulations apply to places of employment.

A. Within ninety (90) days of the effective date of this chapter each employer shall adopt, implement, and maintain a written smoking policy which shall contain at a minimum the following:

1. Prohibition of smoking in employer conference and meeting rooms, classrooms, auditoriums, restrooms, medical facilities, hallways, elevators, and behind service counters;
2. Provision and maintenance of no smoking areas in cafeterias, lunchrooms and employee lounges that effectively provide a smoke-free environment for nonsmoking employees;
3. Any employee in the place of employment shall be given the right to designate his or her work area as a nonsmoking area and to post it with appropriate signs or sign. The policy adopted by the employer shall include a definition of the term "work area" which gives preferential consideration to nonsmokers. No nonsmoking employee shall be required to enter or work in a smoking work area;
4. In any dispute arising in the work place under the smoking policy, the rights of the nonsmoker shall be given precedence;
5. Except where other signs are required, whenever smoking is prohibited, conspicuous signs shall be posted so stating.

B. The smoking policy shall be communicated to all employees within three weeks of its adoption and permanently posted in a prominent place.



C. Notwithstanding the provisions of subsection A of this section, every employer shall have the right to designate any place of employment as a nonsmoking area.

D. This section is not intended to regulate smoking in the following places under the following conditions:

1. A private residence which may serve as a place of employment;
2. A place of employment which is private, enclosed, physically separated, and ventilated to the outside, occupied exclusively by smokers, excepting places in which smoking is prohibited by fire marshal or by other law, ordinance or regulation.

E. An employer shall post “No Smoking” signs in any area designated as a nonsmoking area and “Smoking Allowed” signs in any area designated a smoking area. **(Ord. 95-17 § 1 (part): prior code Title III § 5-4)**

#### **6.40.060: POSTING OF SIGNS**

To advise persons of the existence of “No Smoking” or “Smoking Permitted” areas, signs shall be posted in the English language as follows:

A. In public places where no smoking is permitted pursuant to this chapter, a sign using the words “No Smoking” and/or the international no smoking symbol shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the establishment.

B. In public places where certain areas are designated as smoking areas pursuant to this resolution, the statement “No Smoking Except in Designated Areas” shall be conspicuously posted in a position clearly visible at each and every entry into the establishment. In addition, the person having the authority to manage and control any area designated as a nonsmoking area pursuant to this chapter, shall post or cause to be posted and prominently displayed, and shall maintain “No Smoking” signs in conspicuous locations within the areas. All such signs shall clearly and conspicuously recite the phrase “No Smoking” and/or use the international no smoking symbol. The signs shall be posted not less than five feet above the floor nor more than eight feet above floor level and shall be of sufficient number and location to cause the message of at least one of the signs to be clearly visible, legible and readable from each area in the establishment. **(Ord. 95-17 § 1 (part): prior code Title III § 5-5)**

#### **6.40.070: EXCEPTIONS**

A. No smoking areas are not required, although they are encouraged, in private areas; hotel, motel, and lodge meeting and assembly rooms rented to guests; areas and rooms while in use for private social functions, the facilities of a private or members only club/organization, private hospital rooms, psychiatric or psychological counseling facilities or stores that deal exclusively in tobacco products and accessories.

A private or members only club/organization that serves alcohol must possess a state of Colorado Club Liquor License to claim this exception.

B. Within a Bar Area. If smoking is permitted in a bar area by the establishment owner, the bar area must be physically separated by solid walls that extend from floor to ceiling. There may be a door opening from the nonsmoking area into the smoking area. The door must not be held open for longer than the time it takes for customers to enter or exit the bar. Further, there must be an approved independent ventilation system serving the smoking area which has no direct or indirect connection to the ventilation system serving the nonsmoking area. There must be no sharing of common return air ducts nor air exhaust ducts. Air intake duct openings serving the nonsmoking area must be a sufficient distance away from smoking area exhaust duct openings to prevent mixing of contaminated air being vented out with clean air being drawn into the establishment.

C. Any owner or manager of a business or other establishment subject to this chapter may apply to the director of the environmental health department for an exception or modification of the provisions of this chapter due to unique or unusual circumstances or conditions. It will be the burden of the applicant to show that the failure to comply with the provision for which the exemption is requested will not result in a danger to public health or annoyance, inconvenience or discomfort. **(Ord. 95-17 § 1 (part): prior code Title III § 5-6)**

#### **6.40.080: ENFORCEMENT**

A. The Pitkin County Manager or the county manager's designee shall be responsible for compliance with this chapter with regard to facilities which are owned, operated or leased by Pitkin County.

B. The owner, operator or manager of any facility, business or agency shall post or cause to be posted all "No Smoking" signs required by this chapter. Owners, operators, managers or employees of same shall be required to verbally inform persons violating this chapter of the provisions thereof. The duty to inform such violator shall arise when such owner, operator, manager or employee of same becomes aware of such violation, and shall be their sole enforcement obligation hereunder.

C. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Aspen/Pitkin environmental health department.

D. No person shall be discriminated or retaliated against in any way for protecting themselves against environmental tobacco smoke under the terms of this chapter either in public or in the workplace, for requesting a nonsmoking work area, or for filing a complaint or otherwise reporting a violation of this chapter.

E. Should a person disagree with a decision made by the Aspen/Pitkin environmental health department relative to this resolution, that person may appeal the decision to the clean air advisory board at a regularly scheduled meeting of that board.

F. The Aspen/Pitkin environmental health department may enforce the provisions of this chapter by either of the following actions:

1. Serving notice requiring correction of any violation of this chapter;
2. Requesting the county attorney to initiate appropriate enforcement proceedings, including, without limitation, the initiation of a complaint for imposition of penalties or injunctive relief, abatement, or other appropriate action to prevent, enjoin, abate or remove such violation.

G. Any person violating this chapter shall, upon conviction, be punished by a fine of not more than three hundred dollars (\$300.00), for each separate offense, and may be enjoined from any further or continued violation thereof. Each day any violation of this chapter shall continue shall constitute a separate offense. In addition to other penalties, any violation of this chapter may be enjoined or abated by the board of county commissioners by appropriate legal action.

H. Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Ord. 95-17 § 1 (part): prior code Title III § 5-8)

## **6-41: PROHIBITION OF POSSESSION AND PURCHASE OF TOBACCO AND NICOTINE PRODUCTS BY MINORS AND THE SALE OR DISTRIBUTION OF TOBACCO AND NICOTINE PRODUCTS TO MINORS**

### **6-41-010: LEGISLATIVE INTENT AND PURPOSES**

The BOCC finds that smoking and the use of tobacco and nicotine products is increasing among the youth of Pitkin County. This increase in use among our youth creates and will maintain a significant health threat to the youth of the County and the adult population as today's youth matures. The BOCC finds that this public health threat requires permanent regulation in the form of a prohibition of the possession of tobacco and nicotine products on the part of individuals under 21 years of age and sale of these products to individuals under 21 years of age.

### **6-41-020: DEFINITIONS**

**“Distribute or Distribution”** means to furnish, give, provide or to attempt to do so whether gratuitously or for any type of compensation.

**“Education Counseling”** means any education, diversion program or similar program approved by either Pitkin County Public Health or the Colorado Department of Human Services whether completed in person or electronically over the internet.

**“Electronic Smoking Device”** means any product containing or delivering nicotine intended for human consumption that can be used by an individual to simulate smoking in the delivery of nicotine or any other substance, even if marketed as nicotine-free, through inhalation from

the product. Electronic Smoking Device includes any refill, cartridge or component part of a product, whether or not marketed or sold separately, e-cigarettes and vaping devices.

**“Minor”** means any individual under the age of 21 years.

**“Public Health Agency”** includes the Pitkin County Board of Health and Pitkin County Public Health Department.

**“Tobacco and Nicotine Products”** means a product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an electronic cigarette, cigar, cigarillo, pipe or other electronic smoking device. Tobacco and nicotine products do not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco cessation product or for other medically approved or certified purposes.

**Undefined terms.** Any undefined terms used in this regulation shall have their accepted definitions under Colorado Law.

#### **6-41-030: PROHIBITED CONDUCT**

**6-41-031:** Possession of cigarettes, tobacco products or nicotine products by a minor is prohibited.

**6-41-032:** Sale or distribution of cigarettes, tobacco products or nicotine products to a minor, either personally or through an agent or employee, is prohibited. In the event of a retail sale of cigarettes, tobacco or nicotine products to a minor, liability for violating this prohibition attaches to the sales agent or employee of the retail establishment as well as to the retail establishment’s owner or owners and shall constitute multiple violations and culpability for a single sales transaction.

#### **6-41-040: EXCEPTIONS AND DEFENSES**

This regulation does not apply to any product that has been approved by the Food and Drug Administration of the United States Department of Health and Human Services as tobacco or nicotine use cessation product.

This regulation does not prohibit an individual under the age of 21 from handling tobacco or nicotine products during the course of lawful employment.

#### **6-41-050: PENALTIES**

Violation of any provision of this regulation shall be enforceable by the imposition of a civil penalty and not considered to be, or prosecuted as, a criminal offense.

Violation of Section 6-41-032 shall be subject to a civil penalty in an amount of \$1000. Enforcement hearings and penalty assessment may be through either the Pitkin County Court or the Pitkin County Hearing Officer.

Any law enforcement officer, County code enforcement officer or inspector operating on the authority of the Public Health Agency may enforce this prohibition through the penalty assessment procedure provided in C.R.S. 16-2-201, or its successor, including the levy of a surcharge as provided in C.R.S. 30-15-402. All fines and surcharges shall be paid to the County and administered by the Public Health Agency for purposes of enforcement of this prohibition, public health programs such as tobacco and substance abuse prevention and mental health programs.

#### **6-41-060: SEVERABILITY**

If any section or part of this regulation is held to be invalid, void or of no effect by a court of competent jurisdiction, the remainder of this regulation shall remain in full force and effect.

#### **6-41-070: COMPLIANCE AND MONITORING**

Compliance with this regulation shall be monitored and enforced by the Public Health Agency or its designee. In addition, any law enforcement officer or the Pitkin Code Enforcement Officer may enforce the provisions of this regulation.

**6-41-071:** All retail locations offering for sale tobacco products or nicotine products must be open to inspection by Pitkin County Public Health or other authorized County official during regular business hours. From time to time, Pitkin County Public Health will conduct compliance checks by engaging persons under the minimum legal sales age to enter locations where Tobacco Products and Nicotine products are sold to attempt to purchase these age-restricted products.

**6-41-072:** Parental or legal guardian written consent is required for any minor to participate in a compliance check. Under-aged individuals participating in compliance checks will be supervised by Pitkin County Public Health or other designated County personnel and will not be guilty of illegal possession or illegal procurement when those items are obtained as a part of the compliance check.

§ 6.41 added [Ord. 001-2020, 01-08-2020](#)

## 6.44: WILDLIFE PROTECTION

### SECTIONS:

6.44.010: DEFINITIONS

6.44.020: REGULATIONS/STANDARDS

6.44.030: ENFORCEMENT

### 6.44.010: DEFINITIONS

**Wildlife** – any animal, including but not limited to dogs, skunks, squirrels, black bears, raccoons, coyotes, bobcats and foxes.

**Wildlife Proof Refuse Container (WPRC)** - a fully enclosed container with a lid which is inaccessible to wildlife. The lid must fit tightly and have a latching mechanism. A dumpster, poly cart or similar trash receptacle of heavy construction may be a WPRC. The Solid Waste Manager, Animal Safety Officer or their designee must approve the WPRC.

**Wildlife Proof Dumpster Enclosure (WPDE)** – a fully enclosed structure consisting of four sides and a roof or cover of sufficient design and construction to prevent access by wildlife. The door or cover must have a latching mechanism, the sides of the structure must extend to within two inches of the ground, and ventilation openings must be covered with a heavy gauge steel mesh or other material of sufficient strength to prevent access by wildlife. Wildlife Proof Dumpster Enclosures are subject to all building codes and planning and zoning requirements. The Solid Waste Manager, Animal Control Officer, or his or her designee must approve the WPDE. (*Ord. 01-10 (part); Ord. 020-07 (part) Ord. 020-A (part)*)

### 6.44.020: REGULATIONS/STANDARDS

All refuse containers regardless of size that receive food wastes attractive to wildlife shall be either an approved Wildlife Proof Refuse Container (WPRC) or a refuse container which is stored within an approved Wildlife Proof Dumpster Enclosure (WPDE).

Any container which receives other wildlife attractants such as food or pet and animal feed must also be an approved WPRC, be stored within an approved WPDE, or be stored within another structure impervious to wildlife such as a building, house or garage.

Dumpsters will be of a design that is impervious to wildlife, with drain holes no greater than one (1) inch in diameter. Dumpster lids must have a closure mechanism and/or a latching device. All lids must:

1. Fully enclose (cover) the dumpster opening.

2. Have edges that fit flush. Lids must not be turned up or bent.
3. Have closure mechanisms which will withstand unintentional opening by an animal and will remain closed when on their side or upside down.
4. Will remain closed when dumpster is on its side or upside down.
5. Have acceptable latching devices, such as cables, bars and/or pull handles. All latching devices must lock into place with a pin or other mechanism.
6. Have no more than one-quarter inch of free play when properly latched and secured.

All dumpster lids must be constructed of steel thick enough to withstand the weight of a bear. Plastic dumpster lids are not permitted.

Compactors must be wildlife proof. No trash may be exposed, and doors must be kept closed except when loading or removing refuse. The area around the compactor must be kept clean and free of refuse.

Wildlife Proof Refuse Containers and Wildlife Proof Dumpster Enclosures must be kept closed and secure except when refuse is being deposited. The area around the WPRC or WPDE must be kept clean and free of refuse. Overfilling of any refuse container, including trash cans set out on the day of collection, is prohibited.

If a WPRC/DE is damaged, allowing access by wildlife, repairs must be made within 48 hours after written notification to the responsible party by the County.

Residents with curbside refuse pickup must place their refuse in a WPRC. Waste must be placed at the curb only after 6 a.m. on the day of pickup. All refuse and any containers containing refuse must be re-secured inside the home, garage or WPRC/DE by 6 p.m.

Licensed Waste Haulers in Pitkin County must provide Wildlife Proof Refuse Containers to all customers who request them, and must collect refuse in accordance with this regulation.

Collection of residential refuse in Pitkin County must occur between the hours of 6 a.m. and 6 p.m.

Outdoor Special Event sites shall be kept free from the accumulation of refuse edible by wildlife. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited in Wildlife Proof Containers or Enclosures, or be removed to an appropriate disposal site.

All construction sites must have a designated container that receives refuse edible by wildlife, food wastes, or other wildlife attractants. This container shall be a Wildlife Proof Refuse Container.

Trailer parks, housing developments, homeowners associations and other types of clustered residential housing should utilize centralized dumpsters, located in a Wildlife Proof Dumpster Enclosure in lieu of individual refuse containers, when practical and appropriate. In such a clustered housing development, if there is repeated failure of the current method of refuse management or if modifications to an enclosure, dumpster or container do not effectively prevent wildlife from gaining access, a new method must be implemented at that location. At the discretion of the County Manager or their designee, a refuse management method with repeated failure will be required to be replaced with centralized dumpster or compactor with appropriate wildlife-proof enclosures.

If the refuse management method at any locations fails, i.e. if wildlife gains access to trash, the responsible party and/or refuse hauler must reinforce or replace the existing container at that location. If there is repeated failure of the current method of refuse management or if modifications to an enclosure, dumpster or container do not effectively prevent wildlife from gaining access, a new method must be implemented at that location. **(Ord. 01-10 (part); Ord. 020-07 (part) Ord. 020-A (part))**

#### **6.44.030: ENFORCEMENT**

1) Violation of this Ordinance shall be a Class 2 Petty Offense with a maximum fine not to exceed \$1,000 and/or imprisonment for a period not to exceed 90 days or the maximum allowable by State law, as amended. The Pitkin County Manager, his/her designee, the Pitkin County Code Enforcement Officer, the Pitkin County Animal Safety Officer or any Law Enforcement Officer shall be authorized to serve a Penalty Assessment, as specified in this Ordinance on any person who violates the provisions of this Ordinance.

A. The Penalty Assessment schedule for residential property violations of this Ordinance shall be:

-First Offense - \$350. This Penalty shall be excused for violators not having an approved WPRC or WPDE if the violator installs an approved WPRC or WPDE within 10 days of the Offense.

-Second Offense- \$500.00

-Third Offense and subsequent Offenses- \$1,000.00

B. The Penalty Assessment schedule for violations relative to commercial properties and property's under construction with a current Pitkin County building permit shall be:



-First Offense - \$350.00. This Penalty shall be excused for violators not having an approved WPRC or WPDE if the violator installs an approved WPRC or WPDE within 10 days of the Offense.

-Second Offense - \$750.00

-Third and subsequent offenses - \$1,000.00 or the maximum allowable by state law, as amended.

The Penalty for violation of Section 6.44.2.9 shall be:

3.4.1 – First Offense \$500.00

3.4.2 - Second and subsequent offenses \$1,000 or the maximum allowable by State law as amended.

- 2) The County staff procedure for issuing a Penalty Assessment and a violator's procedure should he/she choose not to acknowledge guilt, shall be as specified in § 16-2-201, C.R.S., as amended.
- 3) Any Person who aids, assists or abets any other Person in committing a violation of these regulations shall be subject to the penalties specified in Paragraphs 3.2 and 3.3 of this ordinance.

Proceeds from Penalty payments relative to this Ordinance shall be placed in a Pitkin County Resource Recovery account to fund Wildlife protection education and to fund provision of approved WPRCs for those violators who are unable to afford the WPRC required by this Ordinance. The funds shall be dispensed at the discretion of the Resource Recovery Director under the following criteria: To be eligible for County assistance in purchasing a WPRC the person/family incurring the violation shall have a gross income of no more than \$25,000. The assistance shall not be available to commercial or construction sites.

Liability for violation of this ordinance shall attach to the property owner or the individual responsible for illegally depositing refuse. This section does not relieve Waste haulers from the responsibility set forth under section 6.44.2.9 of this Ordinance.

**(Ord. 01-10 (part); Ord. 020-07 (part) Ord. 020-A-07 (part))**

## **6.48: PITKIN COUNTY RETAIL MARIJUANA LICENSING REGULATIONS**

### **6.48.010: PURPOSE AND INTENT**

Section 16 of Article XVIII of the Colorado Constitution decriminalizes the personal use and possession and retail sale of marijuana for adults. To implement the state constitution, the General Assembly enacted the Colorado Retail Marijuana Code, Title 12, Article 43.4 of the Colorado Revised Statutes (“CRMC”).

The purpose of these regulations is to authorize licensing in unincorporated Pitkin County as provided in § 12-43.4-301, C.R.S., by establishing specific standards and procedures for local licensing of retail marijuana establishments engaged in the cultivation, manufacture, sale, and testing of retail marijuana and retail marijuana products, as provided by state law to protect the health safety, and welfare of the residents of Pitkin County.

### **6.48.020: DEFINED TERMS**

The definitions in the CRMC, §12-43.4-103, C.R.S., shall apply to these regulations. The term “Local Licensing Authority” means the Pitkin County Retail Marijuana Licensing Authority. The term “Board” shall mean the Pitkin County Board of County Commissioners.

### **6.48.030: EFFECTIVE DATE AND APPLICABILITY**

- A. Effective date. These regulations are effective upon final adoption of Ordinance No. 005-2014. It shall be unlawful operate a retail marijuana establishment in unincorporated Pitkin County for which a license is required under the CRMC without first having obtained a state license and a Pitkin County license under these regulations.
- B. Applications for local licenses. The Local Licensing Authority shall receive and process applications for licensing under the CRMC and these regulations.
- C. No entitlement or vested right. No person shall have any entitlement or vested right to licensing under these regulations. To lawfully engage in the business of cultivation, manufacture, sale, and testing of retail marijuana and retail marijuana products in unincorporated Pitkin County, all persons or entities must obtain a license under these regulations.

### **6.48.040: LICENSING AUTHORITY**

The Pitkin County Board of County Commissioners designates the Pitkin County Clerk and Recorder or her designee to act as the Pitkin County Retail Marijuana Licensing Authority.

#### **6.48.050: LICENSES**

The Board shall issue the following types of retail marijuana licenses should the applicant fulfill the requirements for such license: retail marijuana store license; retail marijuana cultivation facility license; retail marijuana products manufacturing facility license; and retail marijuana testing facility license. Any of these licenses may be issued and conditioned with specific requirements relating to the particular license.

Local license applications shall be reviewed in order of receipt of state license and completeness of local license application.

**(§ 6.48.050 amended (part) [Ord. 026-14, 07-09-14](#))**

#### **6.48.060: MULTIPLE RETAIL MARIJUANA OR MEDICAL MARIJUANA LICENSES**

The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any State of Colorado or Pitkin County law. A valid license is required from both the State of Colorado and Pitkin County before operation of a retail marijuana establishment as provided by the CRMC. Each type of license is separate and distinct from another and confers no right to conduct any activity not specifically licensed.

A person may operate a licensed retail marijuana store, retail marijuana products manufacturing facility, and retail marijuana testing facility at the same location if appropriate licenses for the activities are obtained. The location of a retail marijuana cultivation facility may only be shared with a retail marijuana testing facility, an optional premises cultivation facility for medical marijuana or a retail marijuana products manufacturing facility if appropriate licenses for the facilities are obtained.

A dual medical marijuana center and retail marijuana store, dual retail marijuana manufacturing facility and medical marijuana infused products manufacturer, or dual testing facility may share the same location if appropriate licenses are obtained, but these licenses shall maintain uses physically separated in the premises, including entrances and exits, inventory, point of sale operations, and record keeping. A dual medical marijuana optional premises cultivation growing facility and retail marijuana cultivation facility operations shall maintain physical separation of the two facilities, the plants, and inventory of the two facilities.

The Board shall have the discretion to limit any location to only one licensed activity.

Physical separation is not required if the licensee complies with the Colorado Department of Revenue, Marijuana Enforcement Division, Marijuana Inventory Tracking Solutions (“MITS”).

MITS is applicable for any retail marijuana license issued in combination with any medical marijuana license.

## **6.48.070: LICENSING PROCEDURE AND CRITERIA**

- A. General Procedure. The Local Licensing Authority shall process and maintain all complete local license applications as authorized by these regulations. Only upon receipt of a state retail marijuana license shall a local license application be reviewed and determined by the Board. Upon issuance of a local license, Pitkin County shall inform the state of the local license issuance. All applications for local licensing shall be made upon forms provided by Pitkin County and shall include the following information:
1. The type of retail marijuana facility for which the license is sought;
  2. Property owner authorization;
  3. The name, address and disclosure of the county of residence of the applicant and all individuals with an ownership interest in the application;
  4. A site plan of all existing buildings on the property where the premises is located, including a floor plan showing how the floor space will be used, parking for the premises, total floor area of the building(s), height of the building(s), total area of the property and the nature and location of any existing or proposed exterior lighting and signage;
  5. A site plan of any proposed building(s) to be constructed, including a floor plan showing how the floor space is or will be used, location of proposed building(s) on the property, total proposed floor area of the building(s), height of the proposed building(s), the construction material of the proposed building(s), the screening of the proposed building(s);
  6. The number of employees, their names, addresses, ages, the results of any background checks and if they hold occupational licenses;
  7. Identification of any interior lighting, screening and odor mitigation equipment and procedures to prevent the outflow of light and odor detrimentally impacting surrounding properties; interior lighting;
  8. A list of all other uses on the property;
  9. The number of vehicle trips per day expected to be generated by the business;
  10. The expected source and level of water use for the premises and viable water supply for the anticipated level of consumption and disposal of any waste water, waste marijuana or waste marijuana products;

11. Evidence that the premises is not within 1,000 feet of an existing alcohol or drug treatment facility, licensed child care facilities, or educational facilities at the time of initial licensing as measured from the closest point of the subject property lines;
  12. Statement of the relevant zoning;
  13. The Local Licensing Authority or the Board at its discretion may require the submission of additional materials as may be useful in making a determination under these regulations. The applicant shall be responsible for submitting materials directly to the Local Licensing Authority.
- B. Public Hearing. The Board shall schedule a public hearing on any initial application. Notice of the public hearing shall be published by the applicant by posting a sign in a conspicuous place on the license premises for which a local license application has been made, and by publication in the county's designated newspaper not less than ten days prior to the hearing, consistent with state law.
- C. Review Criteria. The Board shall consider the following criteria when evaluating a retail marijuana license application:
1. The number of licenses issued for operation of a retail marijuana store;
  2. The number of licenses issued for operation of a retail marijuana cultivation facility;
  3. The number of licenses issued for operation of a retail marijuana products manufacturing facility;
  4. The number of licenses issued for operation of a retail marijuana testing facility;
  5. The activities associated with each type of retail marijuana establishment for which a license is sought must comply with the zoning for the premises upon which the retail marijuana establishment would be located;
  6. The size of the facilities associated with a retail marijuana store license, including setbacks from property boundary, visibility and proximity to neighboring properties;
  7. The size of the facilities associated with a retail marijuana cultivation license, including setbacks from property boundary, visibility and proximity to neighboring properties;

8. The size of the facilities associated with a retail marijuana products manufacturing license, including setbacks from property boundary, visibility and proximity to neighboring properties;
9. The size of the facilities associated with a retail marijuana testing license, including setbacks from property boundary, visibility and proximity to neighboring properties;
10. The retail marijuana establishment shall not cause a detrimental material increase in traffic impacts;
11. The visibility of the retail marijuana establishment;
12. The number of employees of the retail marijuana establishment;
13. Security concerns regarding the retail marijuana establishment;
14. The physical characteristics of the property upon which the retail marijuana establishment would be located;
15. The expected energy consumption of any proposed facility;
16. A license will not be issued for any Retail Marijuana Store, Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturer in the following Caucus Areas: Snowmass-Capitol, Frying Pan, Woody Creek and Emma, Upper Snowmass Creek, Maroon Creek and Castle Creek Caucus areas. A license will not be issued for a retail marijuana store within the Town of Redstone (Village Commercial District) in the Crystal River Caucus area. A license will not be issued for a Retail Marijuana Store or a Retail Marijuana Infused Products Manufacturer in the Snowmass-Capitol Creek Caucus area.

All applications for any type of retail marijuana license shall be referred for recommendation and comment to the caucus of the proposed license facility and any other caucus that has a reasonable expectation of experiencing impacts related to the issuance of the license.

17. The degree to which the operation and facilities of the retail marijuana establishment are detrimental to community character;
18. The reasonable requirements of the neighborhood, any reasonable restrictions that should be placed upon a retail marijuana establishment, and the concentration of the same class of retail marijuana license.

The Board shall grant or deny a license based solely upon its investigation and findings. The Board shall deny any application that is not in full compliance with these regulations.

(§6.48 enacted [Ord. 021-2013](#), 09-25-13; § 6.48 repealed [Ord. 004-2014](#), 02-12-2014) (§ 6.48.070 amended (part) [Ord. 009-2014](#), 05-06-2014; § 6.48.070 amended (part) [Ord. 026-2014](#), 07-09-14; § 6.48.070 amended (part) [Ord. 002-2015](#), 02-11-15) § 6.48.070 amended (part) [Ord. 024-2016](#); § 6.48.070 amended (part) [Ord. 011-2018](#), § 6.48.070 amended (part) [Ord. 034-2018](#), 07-11-18

#### **6.48.080: TERM OF LICENSE; RENEWAL**

Any Pitkin County license issued under these regulations shall be valid for a period of one year from the date of issuance. A licensee shall submit a renewal application at least 30 days before the expiration of the license. Renewal applications may be processed administratively without a public hearing by the Pitkin County Retail Marijuana Licensing Authority only if the application is complete and the full renewal operating fee is paid, no violation of these regulations occurred during the previous license term, no changes to the license are requested, there was continuous operation of the retail marijuana establishment during the preceding three months and no complaints are outstanding regarding the retail marijuana establishment concerning the previous license term. If a renewal application does not meet the requirements to be processed administratively, then the renewal application shall be heard by BOCC at public hearing under procedures in § 6.48.070(B) and review criteria contained in § 6.48.070(C).

Renewal applications shall contain a description of all previous violations and complaints and their outcome.

The Local Licensing Authority shall not accept an application for renewal of a license after 30 days prior to the date of expiration, except as otherwise provided in this section. The Local Licensing Authority may extend the expiration date of the license one time for a maximum of 30 days and accept a late application for renewal of a license provided that the applicant has filed a timely renewal application with the state licensing authority.

#### **6.48.090: SIGNS**

No advertising sign or logo shall be permitted on any retail marijuana cultivation facilities. One advertising sign or logo may be placed to identify the retail marijuana establishment other than cultivation facilities, which shall comply with the Pitkin County Code § 7-60-50.

#### **6.48.100: FACILITY REQUIREMENTS**

- A. All retail marijuana and marijuana products that have been prepared for sale, testing, infusion or manufacturing shall be stored within a completely enclosed, alarmed, and secure building at all times.
- B. All retail marijuana establishments shall satisfy all applicable Pitkin County Building, Land Use, Zoning, and Fire Codes.

- C. All retail marijuana establishments shall be equipped with a proper ventilation system so that odors are filtered and do not materially interfere with the enjoyment of adjoining property.
- D. No retail marijuana establishment shall be permitted to operate from a moveable, mobile or transitory facility, or make deliveries to retail consumers.
- E. All retail marijuana stores shall not open earlier than 9:00 a.m. and shall close no later than 9:00 p.m. There is no limit on the hours of operation for retail marijuana products manufacturing facilities, retail marijuana testing facilities and retail marijuana cultivation facilities.
- F. At the discretion of the Board, a retail marijuana establishment shall have an on-site caretaker or other resident occupant.
- G. Any change of the ownership interest of any of the individuals or entities associated with the retail marijuana establishment for which the license is granted shall be reported to the Pitkin County Retail Marijuana Licensing Authority within 7 days of such change. This report shall disclose which individuals no longer have an ownership interest in the licensed facility or if applicable, what individuals have gained an ownership interest. All individuals or entities with an ownership interest must provide all identifying information required by the license application.
- H. No sales of products other than marijuana or products containing marijuana shall be available for sale at retail marijuana stores. No individuals under the age of 21 shall be allowed admittance into any retail marijuana store.
- I. All licensees must maintain with the Pitkin County Licensing Authority an up to date list of contact information for anyone in a managerial capacity for any retail marijuana establishment. A manager shall be any individual with the authority and responsibility to respond to any law enforcement inquiry, inspection request, emergency situation at the facility or any other circumstance requiring immediate attention and action.
- J. All licensees must maintain with the Pitkin County licensing authority a current list of employees that discloses names, addresses, ages, results of state background checks, and any occupational licenses.
- K. All retail marijuana store licensees, their agents or employees and anyone conducting sales to the general public shall be familiar with the potency of all products for sale and shall be able and available to assist customers with their purchases by advising customers of expected effects, the duration, strength and delay after actual consumption of each infused product or strain of marijuana. All licensees shall participate in training programs sanctioned by the Pitkin County Sheriff as those programs are developed.



- L. An advisement on state and local laws and individual responsibility shall accompany any sale of retail marijuana or retail marijuana product and shall also be displayed prominently in any facility which offers retail marijuana or retail marijuana products for sale.
- M. All retail marijuana and retinal marijuana-infused products must be clearly identified as containing marijuana and packaged in a childproof manner as required by State law. This labeling shall appear in English and Spanish.

**(§ 6.48.100 amended (part) [Ord. 026-14, 07-09-14](#))**

#### **6.48.110: CHANGES IN LICENSE**

- A. Transfer of Ownership. Any license issued under these regulations or renewal of such license is not transferable or assignable.
- B. Change of Location. Any license granted under these regulations is limited to the location(s) specified on the license. Operation of a retail marijuana store license; retail marijuana cultivation facility license; retail marijuana products manufacturing facility license; retail marijuana testing facility license at a new location requires a new license.
- C. Modification of premises. Licenses issued are based upon representations made in the application. Any structures identified in the application may not be enlarged nor additional structures added to the licensed retail marijuana establishment until a modification to the license is granted through application procedure in § 6.48.070(B) and pursuant to the review criteria contained in § 6.48.070(C).

#### **6.48.120: INSPECTION**

By signing and submitting a license application, the owner(s) of the premises and the license holder(s) consent to inspections of the premises by Pitkin County personnel and individuals accompanied by Pitkin County personnel for the purpose of determining compliance with state and county law.

#### **6.48.130: PENALTIES & REVOCATION**

- A. The Board has the authority to suspend, restrict, or revoke a license or impose a fine upon any violation of these regulations or license requirements or any rule promulgated pursuant to these regulations.
- B. Any violation of the Pitkin County Retail Marijuana Licensing Regulations or licensing requirements may be subject to a fine of up to \$1,000 per occurrence. Each day a violation exists shall be considered a separate occurrence subject to fine.

- C. Any complaint of a violation of Pitkin County Retail Marijuana Licensing Regulations or license requirements shall be referred to either the Pitkin County Marijuana Licensing Authority or the Pitkin County Attorney’s Office and investigated if appropriate. If upon investigation by Pitkin County a violation is found, a hearing on the violation will be presided over by the Pitkin County Hearing Officer. Upon the Pitkin County Hearing Officer’s determination a violation occurred, the Board may suspend, restrict or revoke a license and/or impose a fine. Pitkin County shall defer to the state to enforce compliance with the requirements of the CRMC and any other state regulations not covered by these regulations. A licensee may appeal the determination of violation by the Pitkin County Hearing Officer to the Board at the same hearing in which the Board shall determine the imposition of the penalty.

**6.48.140: OPERATING FEES**

Operating Fees are fees in addition to application fees.

All additional costs over the amount of applicable application and operating fees to investigate, remediate, process referrals or otherwise respond to applications or violations of State and County laws or license conditions shall be the responsibility of the licensee and shall be remitted to Pitkin County at the rate of \$350 per hour of staff time. Failure to pay these costs are grounds for revocation of all licenses to the licensee.

<u>Operating Fees Applicable to:</u>	<u>Initial License</u>	<u>Renewal License</u>
Retail marijuana store \$1,500	\$3,000	
Retail marijuana cultivation facility \$1,500	\$3,000	
Retail marijuana products manufacturing facility \$1,500	\$3,000	
Retail marijuana testing facility \$1,500	\$3,000	
Modification of Premises	\$ 150	

Payments shall be made payable to the Pitkin County Treasurer. All fees are nonrefundable and must be paid at or before the time of any license issuance. All fees associated with these regulations shall be used as general funds of Pitkin County.

*(§ 6.48 enacted [021-2013](#) 09-25-2013; repealing Ord No. 021-2013 [Ord. 004-14](#), 02-12-14) § 6.48.140 amended (part) Ord. 013-2015; § 6.48.140 amended (part) [Ord. 024-2016](#), 11-02-2016;*

**6.49: PITKIN COUNTY MEDICAL MARIJUANA LICENSING REGULATIONS**

**6.49.010: PURPOSE AND INTENT**

Article 43.3 of Title 12 of the Colorado Revised Statutes (House Bill 10-1284) went into effect on July 1, 2010. Known as the Colorado Medical Marijuana Code (“CMMC”), the CMMC gives the State Medical Marijuana Licensing Authority the ability to promulgate rules necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of medical marijuana and the enforcement of the CMMC. The CMMC authorizes counties and municipalities to determine whether to permit, as a matter of state law, certain medical marijuana businesses within their jurisdictions. The purpose of these regulations is to authorize licensing in unincorporated Pitkin County as provided in C.R.S. § 12-43.3-301 as amended, by establishing specific standards and procedures for local licensing of medical marijuana centers, medical marijuana-infused products manufacturers, and optional premises medical marijuana cultivation operations as provided by state law; and to protect the health, safety, and welfare of the residents of Pitkin County by prescribing the manner in which medical marijuana businesses can be conducted in the county.

#### **6.49.020: DEFINED TERMS**

The definitions in the Colorado Medical Marijuana Code, § 12-43.3-104, C.R.S. as amended, shall apply to these regulations. The term "Licensing Authority" means the Pitkin County Clerk and Recorder. The term “Board” shall mean the Pitkin County Board of County Commissioners.

#### **6.49.030: EFFECTIVE DATE AND APPLICABILITY**

- A. Effective date. These regulations are effective upon final adoption of Ordinance No. 004-2014. It shall be unlawful operate a medical marijuana establishment in unincorporated Pitkin County for which a license is required under the CMMC without first having obtained a state license and a Pitkin County license under these regulations.
- B. Applications for local licenses. The Local Licensing Authority shall receive and process applications for licensing under the CMMC and these regulations.
- C. No entitlement or vested right. No person shall have any entitlement or vested right to licensing under these regulations. To lawfully engage in the business of selling, or cultivating medical marijuana or manufacturing medical marijuana-infused products in unincorporated Pitkin County, all persons must obtain a license under these regulations.

#### **6.49.040: LICENSING AUTHORITY**

The Pitkin County Board of County Commissioners designates the Pitkin County Clerk and Recorder or her designee to act as the Pitkin County Medical Marijuana Licensing Authority.

#### **6.49.050: LICENSES**

The Board shall issue the following local licenses should the applicant fulfill the requirements for such license: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing license. Any of these licenses may be issued and conditioned with specific requirements relating to the particular licensee.

An optional premises cultivation license may only be issued to a person licensed for a medical marijuana center or medical marijuana-infused products manufacturing facility, who proposes to grow and cultivate medical marijuana at an additional Colorado licensed premises contiguous or not contiguous with the licensed premises of the person's medical marijuana center license or medical marijuana-infused products manufacturing license. Local license applications shall be reviewed in order of receipt of state license and completeness of local license application.

#### **6.49.060: MULTIPLE MEDICAL MARIJUANA LICENSES OR DUAL MEDICAL AND RETAIL MARIJUANA LICENSES**

The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any State of Colorado or Pitkin County law. A valid license is required from both the State of Colorado and Pitkin County before operation of any medical marijuana establishment as provided by the CMMC. Each type of license is separate and distinct from another and confers no right to conduct any activity not specifically licensed.

A person may operate a licensed medical marijuana center and medical marijuana-infused products manufacturing facility at the same location if appropriate licenses for the activities are obtained. If appropriate licenses for the facilities are obtained, an optional premises cultivation facility for medical marijuana may share a location with a retail marijuana cultivation facility.

A dual medical marijuana center and retail marijuana store or a dual retail marijuana manufacturing facility and medical marijuana-infused products manufacturer may share the same location if appropriate licenses are obtained, but these licenses shall maintain uses physically separated in the premises, including entrances and exits, inventory, point of sale operations, and record keeping.

The Board shall have the discretion to limit any location to only one licensed activity.

#### **6.49.070: LICENSING PROCEDURE AND CRITERIA**

- A. General Procedure. The Local Licensing Authority shall process and maintain all complete local license applications as authorized by these regulations. Only upon receipt of a state medical marijuana license shall a local license application be issued and determined by the Board. Upon receipt of a local licensing application under these regulations, the Local Licensing Authority shall request that the state

licensing authority conduct a concurrent review as described in paragraph 14 below. All applications for local licensing shall be made upon forms provided by Pitkin County and shall include the following information:

1. The type of medical marijuana facility for which the license is sought;
2. Property owner authorization;
3. The name, address and disclosure of the county of residence of the applicant and all individuals with an ownership interest in the application;
4. A site plan of all existing buildings on the property where the premises is located, including a floor plan showing how the floor space will be used, parking for the premises, total floor area of the building(s), height of the building(s), total area of the property and the nature and location of any existing or proposed exterior lighting and signage;
5. A site plan of any proposed building(s) to be constructed, including a floor plan showing how the floor space is or will be used, location of proposed building(s) on the property, total proposed floor area of the building(s), height of the proposed building(s), the construction material of the proposed building(s), the screening of the proposed building(s);
6. The number of employees, their names, addresses, ages, the results of any back ground checks and if they hold occupational licenses;
7. Identification of any interior lighting, screening and odor mitigation equipment and procedures to prevent the outflow of light and odor detrimentally impacting surrounding properties; interior lighting;
8. A list of all other uses on the property;
9. The number of vehicle trips per day expected to be generated by the business;
10. The expected source and level of water use for the premises and viable water supply for the anticipated level of consumption and disposal of any waste water, waste marijuana or waste marijuana products;
11. Evidence that the premises is not within 1,000 feet of an existing alcohol or drug treatment facility, licensed child care facilities, or educational facilities at the time of initial licensing as measured from the closest point of the subject property lines;
12. Statement of the relevant zoning;

13. The Local Licensing Authority or the Board at its discretion may require the submission of additional materials as may be useful in making a determination under these regulations. The applicant shall be responsible for submitting materials directly to the Local Licensing Authority.
- B. Public Hearing. The Board shall schedule a public hearing on any initial application. Notice of the public hearing shall be published by the applicant by posting a sign in a conspicuous place on the premises for which a local license application has been made, and by publication in the County's designated newspaper not less than ten days prior to the hearing, consistent with state law.
- C. Review Criteria. The Board shall consider the following criteria when evaluating a medical marijuana license application:
1. The number of licenses issued for operation of a medical marijuana center;
  2. The number of licenses issued for operation of an optional premises medical marijuana cultivation facility;
  3. The number of licenses issued for operation of a medical marijuana-infused products manufacturing facility;
  4. The activities associated with each type of medical marijuana establishment for which a license is sought must comply with the zoning for the premises upon which the medical marijuana establishment would be located;
  5. The size of the facilities associated with a medical marijuana center license, including setbacks from property boundary, visibility and proximity to neighboring properties;
  6. The size of the facilities associated with a medical marijuana optional premises cultivation license, including setbacks from property boundary, visibility and proximity to neighboring properties;
  7. The size of the facilities associated with a medical marijuana-infused products manufacturing license, including setbacks from property boundary, visibility and proximity to neighboring properties;
  9. The medical marijuana establishment shall not cause a detrimental material increase in traffic impacts;
  10. The visibility of the medical marijuana establishment;
  11. The number of employees of the medical marijuana establishment;
  12. Security concerns regarding the medical marijuana establishment;

13. The physical characteristics of the property upon which the medical marijuana establishment would be located;
14. The expected energy consumption of any proposed facility;
15. A license will not be issued for any Medical Marijuana Center, Medical Marijuana Optional Premises Cultivation Facility or Medical Marijuana-infused Products Manufacturing Facility in the Frying Pan, Woody Creek, Emma, Upper Snowmass Creek, Maroon Creek and Castle Creek Caucus areas. A license will not be issued for a Medical Marijuana Center or a Medical Marijuana-Infused Products Manufacturing Facility in the Snowmass-Capitol Caucus area. A license will not be issued for a Retail Marijuana Store or a Medical Marijuana Center in the Town of Redstone (Village Commercial Zone District).
16. The prohibition on the issuance of licenses as described in sub-section 15 of this section, shall remain in place until amended by the Board of County Commissioners.
17. All applications for any type of a medical marijuana license shall be referred for recommendation and comment to the caucus of the proposed licensed facility and to any other caucus that has a reasonable expectation of experiencing impacts related to the issuance of the license.
18. The degree to which the operation and facilities of the medical marijuana establishment are detrimental to community character;
19. The reasonable requirements of the neighborhood, any reasonable restrictions that should be placed upon a medical marijuana establishment, and the concentration of the same class of medical marijuana license.
20. The Board shall grant or deny a license based solely upon its investigation and findings. The Board shall deny any application that is not in full compliance with these regulations.

**§ 6.49.070 amended (part) [Ord. 002-2015, 02-11-15](#) § 6.49.070 amended (part )  
[Ord. 011-2018, 02-14-18](#); § 6.49.070 amended (part) [Ord. 034.2018, 07-11-18](#)**

**6.49.080: TERM OF LICENSE; RENEWAL**

Any Pitkin County license issued under these regulations shall be valid for a period of one year from the date of issuance. A licensee shall submit a renewal application to the Local Licensing Authority not less than forty-five (45) days before the expiration of the license. Renewal applications may be processed administratively without a public hearing by the

Pitkin County Medical Marijuana Licensing Authority only if the application is complete and the full renewal operating fee is paid, no violation of these regulations occurred during the previous license term, no changes to the license are requested, there was continuous operation of the medical marijuana establishment during the preceding three months and no complaints are outstanding regarding the medical marijuana establishment concerning the previous license term. If a renewal application does not meet the requirements to be processed administratively, then the renewal application shall be heard by BOCC at public hearing under procedures in § 6.49.070(B) and review criteria contained in § 6.49.070(C).

Renewal applications shall contain a description of all previous violations and complaints and their outcome.

The Local Licensing Authority shall not accept an application for renewal of a license after 45 days prior to the date of expiration, except as otherwise provided in this section. The Local Licensing Authority may extend the expiration date of the license one time for a maximum of 30 days and accept a late application for renewal of a license provided that the applicant has filed a timely renewal application with the state licensing authority.

Upon denial or revocation of a state license, any license issued under these regulations shall be revoked.

#### **6.49.090: SIGNS**

No advertising sign or logo shall be permitted on any medical marijuana optional premises cultivation facility. One advertising sign or logo may be placed to identify the medical marijuana establishment other than cultivation facilities, which shall comply with the Pitkin County Code § 7-60-50.

#### **6.49.100: FACILITY REQUIREMENTS**

- A. All medical marijuana and marijuana products that have been prepared for sale, infusion or manufacturing shall be stored within a completely enclosed, alarmed, and secure building at all times.
- B. All medical marijuana establishments shall satisfy all applicable Pitkin County Building, Land Use, Zoning, and Fire Codes.
- C. All medical marijuana establishments shall be equipped with a proper ventilation system so that odors are filtered and do not materially interfere with the enjoyment of adjoining property.
- D. No medical marijuana establishment shall be permitted to operate from a moveable, mobile or transitory facility, or make deliveries to medical consumers.



- E. All medical marijuana centers shall not open earlier than 9:00 a.m. and shall close no later than 9:00 p.m. There is no limit on the hours of operation for medical marijuana-infused products manufacturing facilities and medical marijuana cultivation facilities.
- F. At the discretion of the Board, a medical marijuana establishment shall have an on-site caretaker or other resident occupant.
- G. Any change of the ownership interest of any of the individuals or entities associated with the medical marijuana establishment for which the license is granted shall be reported to the Pitkin County Medical Marijuana Licensing Authority within 7 days of such change. This report shall disclose which individuals no longer have an ownership interest in the licensed facility or if applicable, what individuals have gained an ownership interest. All individuals or entities with an ownership interest must provide all identifying information required by the license application.
- H. No sales of products other than marijuana or products containing marijuana and marijuana accessories, limited exclusively to those accessories needed for ingesting, inhaling, or otherwise introducing marijuana into the human body as defined by Section 16, Article XVIII of the Colorado Constitution, shall be available for sale at medical marijuana centers.
- I. All licensees must maintain with the Pitkin County Licensing Authority an up to date list of contact information for anyone in a managerial capacity for any medical marijuana establishment. A manager shall be any individual with the authority and responsibility to respond to any law enforcement inquiry, inspection request, emergency situation at the facility or any other circumstance requiring immediate attention and action.
- J. All licensees must maintain with the Pitkin County licensing authority a current list of employees that discloses names, addresses, ages, results of state background checks, and any occupational licenses.
- K. All medical marijuana center licensees, their agents or employees and anyone conducting sales to the general public shall be familiar with the potency of all products for sale and shall be able and available to assist customers with their purchases by advising customers of expected effects, the duration, strength and delay after actual consumption of each infused product or strain of marijuana. All licensees shall participate in training programs sanctioned by the Pitkin County Sheriff as those programs are developed.
- L. An advisement on state and local laws and individual responsibility shall accompany any sale of medical marijuana or medical marijuana product and shall also be displayed prominently in any facility which offers medical marijuana or medical marijuana-infused products for sale.

- M. All medical marijuana and medical marijuana-infused products must be clearly labeled as containing marijuana and packaged in a childproof manner as required by State law. This labeling must appear in English and Spanish.

**(§ 6.49.100 enacted Ord. 024-2014 amended (part) Ord. 024.2016)**

#### **6.49.110: CHANGES IN LICENSE**

- A. Transfer of Ownership. Any license issued under these regulations or renewal of such license is not transferable or assignable.
- B. Change of Location. Any license granted under these regulations is limited to the location(s) specified on the license. Operation of a medical marijuana center license, medical marijuana cultivation facility license or medical marijuana-infused products manufacturing facility license at a new location requires a new license.
- C. Modification of premises. Licenses issued are based upon representations made in the application. Any structures identified in the application may not be enlarged nor additional structures added to the licensed medical marijuana establishment until a modification to the license is granted through application procedure in § 6.49.070(B) and pursuant to the review criteria contained in § 6.49.070(C).

#### **6.49.120: INSPECTION**

By signing and submitting a license application, the owner(s) of the premises and the license holder(s) consent to inspections of the premises by Pitkin County personnel and individuals accompanied by Pitkin County personnel for the purpose of determining compliance with state and county law.

#### **6.49.130: PENALTIES & REVOCATION**

- A. The Board has the authority to suspend, restrict, or revoke a license or impose a fine upon any violation of these regulations or license requirements or any rule promulgated pursuant to these regulations.
- B. Any violation of the Pitkin County Medical Marijuana Licensing Regulations or licensing requirements may be subject to a fine of up to \$1,000 per occurrence. Each day a violation exists shall be considered a separate occurrence subject to fine.
- C. Any complaint of a violation of Pitkin County Medical Marijuana Licensing Regulations or license requirements shall be referred to either the Pitkin County Marijuana Licensing Authority or the Pitkin County Attorney's Office and investigated if appropriate. If upon investigation by Pitkin County a violation is found, a hearing on the violation will be presided over by the Pitkin County Hearing Officer. Upon the Pitkin County Hearing Officer's determination a violation

occurred, the Board may suspend, restrict or revoke a license and/or impose a fine. Pitkin County shall defer to the state to enforce compliance with the requirements of the CMMC and any other state regulations not covered by these regulations. A licensee may appeal the determination of violation by the Pitkin County Hearing Officer to the Board at the same hearing in which the Board shall determine the imposition of the penalty.

#### **6.49.140: APPLICATION FEES**

The application fee for any type of initial medical marijuana license is \$2,500. The application fee for a modification of premises application is \$150. The fee to renew any type of medical marijuana license is \$1,000.

All additional costs over the amount of applicable application fees to investigate, remediate, process referrals or otherwise respond to applications or violations of State and County laws or license conditions shall be the responsibility of the licensee and shall be remitted to Pitkin County at the rate of \$350 per hour of staff time. Failure to pay these costs are grounds for revocation of all licenses issued to the licensee.

Payments shall be made payable to the Pitkin County Treasurer. All fees are nonrefundable and must be paid at or before the time of any license issuance. All fees associated with these regulations shall be used as general funds of Pitkin County.

*(§ 6.49.140 enacted [Ord. 024-2014, 07-09-2014](#); amended (part) [Ord. 013-2015, 04-08-2015](#)); amended (part) [Ord. 024.2016](#))*

#### **6.50: SHORT TERM RENTAL CODE**

##### **6.50.010 Purpose and Intent**

This Regulation is enacted in order to license and regulate short term rental activity in unincorporated Pitkin County. Authority to enact these regulations is specifically found in House Bill 20-1093, codified at C.R.S. § 30-15-401 (1)(s), which delegates to the counties of the State of Colorado the ability to license and regulate residential Dwelling Units used as Lodging Units for Short Term Stays. To implement this delegation of authority these regulations are adopted to establish a system of registration, licensing, tax collection, and regulation of Short Term Rental activity for the health, safety and welfare of the citizens and property owners of Pitkin County.

These regulations do not apply or pertain to hotels, motels, lodges, resort cabins, guest ranches, country inns or bed and breakfast establishments as these uses are defined in the Pitkin County Land Use Code.

Any Dwelling Unit or Lodging Unit that is operated and rented as a short term rental pursuant to a federal permit or on property of the United States, or used in a

coordinated system of short term rentals that meet this qualification, is exempt from this Code.

These regulations may be referred to as the “Pitkin County Short Term Rental Code.”

#### **6.50.020     Defined Terms**

**Bed and Breakfast;** the provision of short term room and board in a dwelling unit as an incidental use to that of its continued occupancy as a principal residence.

**Board;** the Board of County Commissioners

**Dwelling Unit;** a building or portion of a building that is designed for or can be used as a residence or sleeping place of one or more people.

**Licensing Authority;** individual or office in the County administration vested with the responsibility to administer and enforce this Code. The Licensing Authority may delegate tasks associated with administration and enforcement of this Code.

**Lodging Unit;** all or part of a dwelling unit or a structure, facility or shelter, or any part thereof that might be used for habitation, or is accessory to a dwelling unit, that is rented as a lodging accommodation.

**Owner’s Agent;** any person or entity authorized to represent and act on behalf of a property owner.

**Short Term Stay or Rental;** any dwelling unit or lodging unit rented, offered, leased, provided, exchanged or operated as a lodging accommodation for compensation for a period less than 30 consecutive days.

#### **6.50.030     Effective Date and Unlawful Acts**

This Code is effective upon the terms of the adopting ordinance of the Board of County Commissioners.

Upon the effective date it shall be unlawful for a property owner or the owner’s agent to rent or advertise for rent, offer, lease, provision, or exchange a dwelling unit or any other structure, facility or shelter, or any part thereof that might be used for habitation, of any type, for a term of less than 30 days unless the owner has a license from Pitkin County to conduct such activity.

The issuance of a license under this Code does not override any zoning restrictions, terms of development approvals, or restrictive or private covenants that affect the use of the property. Licenses are not available for employee, affordable or other managed or covenant restricted housing.

The issuance of a license shall not confer an entitlement or vested right in the continuation of the license.

All advertisements for short term rental must include within the advertisement the license number associated with the property for rent.

Licenses are not transferable from one individual to another.

#### **6.50.040     Licensing Authority**

The Licensing Authority is the individual or office within the County vested with the responsibility to administer and enforce this Code. The Licensing Authority is appointed by the County Manager with consultation with the Board.

The Licensing Authority shall:

1. Receive and determine applications and issue licenses under this Code.
2. Adopt all forms to be used with these processes and request relevant and necessary information to be provided in applications.
3. Submit all applications to interested County Officials, as needed, for their review and comment as to compliance by the applicant with all County Codes and regulations which they have the duty to enforce and to the general appropriateness of granting an application.
4. Investigate and determine the eligibility of any applicant and property for a license as required by this Code.
5. Notify any applicant of the determination of their application and, upon the applicant's request, state in writing the reasons therefor and deliver it to the applicant.
6. Impose appropriate restrictions on any short term rental license issued under this Code consistent with the requirements of this Code.
7. If determined to be appropriate, to refer an application to the Board at any time for any reason for the Board's determination.

**6.50.050      Licensing Procedure, Criteria and Requirements**

**6.50.051      Licenses.**

The Licensing Authority shall issue licenses on behalf of the Board. Actions of the Licensing Authority issuing or denying licenses may be appealed by any interested party to the Board within 10 days of the licensing action. Such appeals are handled de novo without limitation to the record of the Licensing Authority action. Licenses are not transferable including to any other owner of the property or subsequent purchaser of licensee's interest.

Records of all applications and actions taken regarding any application or license shall be maintained by the Licensing Authority.

Notice of an application shall be mailed to all adjoining property owners for comment 15 days prior to a determination of an application. Mailed notifications are not required for renewal applications unless during the previous license term there have been violations of any County Codes, the terms of the previous license or unresolved complaints concerning the rental activities.

**6.50.052      Application procedure.**

All applications for licensing shall include the following:

1. Property owner's name(s) and signed application submitted by an owner or someone acting on the owner's behalf who is responsible for the contents of the application, the address of the property to be licensed.
2. Size of the residence to be rented and whether the entire residence is available for rent or only a portion.
3. Number of bedrooms and bathrooms in the residence available for rent and in total.
4. Size of the property on which the residence is located and its zoning designation.
5. Maximum number of renters or guests intended to occupy the rented residence.
6. Identity and contact information of any third party managers or agents having control of the property while it is rented and having the ability to respond to complaints and problems associated with the property.

7. All previous notices of code violations, warnings, or complaints concerning the property.
8. Source of water for the residence and if the residence is on a sewage collection system or an on-site wastewater treatment system.
9. Number of nights in the license term that are available for rental and if rental activity is year round or if it is seasonally or otherwise limited.
10. Affirmation of the Applicant/owner of the presence in the residence of working smoke and carbon monoxide detectors and fire extinguishers.
11. Any additional information that the Licensing Authority believes might be useful in determination of the application.
12. History of short term rental activity for the property demonstrating its use for short term rental between the period of May 11, 2017 and May 11, 2022.

#### **6.50.053 License Application Evaluation Criteria**

All applications for licenses will be evaluated against the following criteria and obligations as well as all other provisions of this Code:

1. Compliance with all County Codes, including but not limited to building, zoning, environmental and energy codes. All licensed properties must also comply with the pertinent local Fire District's Code and Regulations.
2. Current registration for sales tax collection.
3. Presence of working smoke and carbon monoxide detectors and fire extinguishers.
4. Sufficient potable water and functioning septic or wastewater collection system.
5. Appropriate limitation of number of renters or guests for the size of the residence and the number of bedrooms and bathrooms. The number of renters and guests

must not exceed two per bedroom or such lower number as appropriate for the condition of the property.

6. Appropriate limitation in the number of nights available for rental.
7. Availability of the owner or manager of the property during times the property is rented to address any issues relating to the residence or complaints concerning the residence. Statement of the Applicant affirming how much time during the year they will be on the property.
8. Satisfactory measures taken to address any safety concerns with the residence.
9. Adequate parking plan for renters and guests.
10. The degree the rental operation may negatively impact or is detrimental to the character of the community and neighborhood of the property.
11. Licenses are not available for employee, affordable or other managed or covenant restricted housing.
12. License applications for properties in the Rural and Remote Zone District will be determined by the Board after the Licensing Authority has recommended that the property has adequate emergency services available, adequate provisions can be made for the safety of the renters and guests considering the remote quality of the property, and that the rental activity and the activities associated with servicing the property will not be injurious to other properties or owners, public and private, or to the qualities inherent to areas in the Rural and Remote Zone District in the area of the rental property.

Decisions made by the Licensing Authority in regard to Rural and Remote applications may be appealed to the Board by either the applicant or any member of County staff within 5 days of determination.

13. No more than one short term rental license shall issue for any single property or parcel.

14. Licenses shall only issue for properties that have been previously used for short term rental during the period between May 11, 2017 and May 11, 2022.



#### **6.50.054 Reasons for Denial of an Application**

A Short Term Rental license application may be denied for the following reasons in addition to other grounds established in this Code:

1. The initiation or investigation by the County of any code compliance or enforcement proceedings as set forth in any of the County Codes.
2. If the applicant has had a prior short-term rental license suspended or revoked or has been cited for violating any provision of this Code or if the property's maintenance and safety has been called into question.
3. If the applicant is delinquent in the payment of any outstanding fees, fines or taxes owed concerning the property.
4. If there are any private governing documents, including, without limitation, conditions, covenants and restrictions that are valid and enforceable which restrict the use of the property for short term rental purposes as defined in this Code.
5. If the applicant fails to provide any of the requested or required application information described in this Code.
6. Failure to satisfy any of the criteria described in this Code.

#### **6.50.055 License Requirements**

All properties licensed for short term rental activity shall comply with the following ongoing requirements. These requirements are necessary for maintaining the license issued under this Code. Failure to comply with these requirements may result in a fine, suspension or revocation of the license or any other remedy provided at law or equity. These specific requirements may be augmented by the Licensing Authority at any time.

1. Licensee must display a copy of the license on the inside of the front door of the residence.
2. Licensee will continue to periodically inspect the adequacy, location and functionality of smoke and carbon monoxide detectors and fire extinguishers in the residence.

3. Licensee must maintain a current list of management personnel and contact information with the Licensing Authority.
4. Licensee must maintain current contact information for themselves with the Licensing Authority.
5. Licensee must maintain the residence in a state of compliance with all Pitkin County Codes and Regulations and any terms of the license issued through this Code.
6. Licensee must insure that the licensed property is maintained in a neat, orderly and safe condition at all times during the term of any license issued through this Code.
7. Licensee must insure that the renters and their guests do not cause excessive noise or other disturbances, disorderly conduct, or violation of any applicable law or regulation pertaining to the rental of the property or adversely affect any of the other residents in the vicinity of the licensed property.
8. Licensee must insure that renters and guests do not park on County roadways or in any manner that would impede traffic on County roadways or access easements for other properties.
9. Licensee must limit number of renters and guests to no more than that allowed under the license.
10. Licensee must remain current with all sales tax and property tax obligations relating to the licensed property.
11. If the licensed property is sold or otherwise conveyed or transferred, the Licensing Authority must be informed immediately.
12. Licensee must place within the residence on the inside of the front door and on the outside of a prominent kitchen cabinet a notice to the renters and guests advising not to engage in any activity which would disturb the neighborhood, instructions for disposal of trash, location for parking vehicles, local animal control regulations including excrement pick up and leash requirements and the

means for accessing Pitkin Alert emergency messaging system. The notice shall also have contact information for the owner and/or management personnel. The content of this notice shall also be contained in the lease document.

13. Either the licensee or management personnel must be available to immediately respond to any emergency during any rental period. The owner or any manager or agent must respond to complaints within 24 hours of notice and have the authority to address any complaints.
14. Licensee or manager must advise renters and guests of any fire bans or restrictions as they become ordered.
15. Licensee must insure that all fireplaces and wood stoves are cleaned and maintained.
16. Licensee must provide trash receptacles and recycle bins and bear proof collection containers for trash pick-up.
17. Licensee must test and treat any hot tubs, spas and pools at least weekly or as required by environmental health or state regulations.
18. Licensee must update all contact information and all representations regarding the residence and its rental that were provided in the application if there are any changes to that information.
19. Licensee shall maintain records of rental activity to be shared with the Licensing Authority, consistent with the requirements of the Licensing Authority, and comprised of, at a minimum, the number and dates of the nights rented, the number of guests for each rental day/night, the frequency of maid/concierge services, the number of service people retained to maintain the rented residence and their vehicle trips to the residence, payment of sales tax and rental rates, and other general records needed for the Licensing Authority to determine the intensity of rental activity and impacts associated with the rental activity.
20. The duration of each rental period must be a minimum of four (4) nights.

21. No property shall be rented for more than 120 nights during any one year license term.

**6.50.060      Term of License, Renewal and Fees**

The term of all licenses and renewals shall be for one year.

A licensee shall submit a renewal application no sooner than 30 days before the expiration of the license. Renewal applications may be processed administratively in the same manner as an original license provided there have been no violations of the terms of the previous license or any Pitkin County Codes or Regulations or the license issued under this Code and there are no unresolved complaints concerning rental activities.

If violations have occurred, then the renewal application shall be determined by the Board. Renewal applications shall contain a description of all previous violations and complaints and their outcome or resolution. The Licensing Authority shall not accept an application for renewal of a license after 30 days following the expiration of a previously issued license.

If more than 30 days have passed since the expiration of a previously issued license, then a new license application must be made.

Fees charged for license applications and renewal applications shall be set by the Licensing Authority from time to time with consultation with the Board. The fees will be designed to sufficiently cover the costs of the administration and enforcement of this Code.

**6.50.070      Inspection**

By signing and submitting a license application, and subsequently being granted a license, the owner(s) of the property consent to inspections of the property by Pitkin County personnel and individuals accompanied by Pitkin County personnel for the purpose of determining compliance with County Codes, Regulations and Laws. No inspection will be made without first giving the licensee, their agent or manager, 48 hours notice of the inspection.

**6.50.080      Signs**

Advertising signs, logos or realtor signs shall not be permitted on any licensed property unless the property is listed for sale. The only sign permitted on a licensed property relating to the rental operation shall be for address identification.

**6.50.090      Violations, Enforcement and Penalties**

Any complaint received regarding the short term rental of property will first be referred to the licensee or licensee's agent for response and correction. The Licensing Authority

will follow up with any complaining party, the licensee or their agent for compliance or resolution.

Any repeat complaint or unaddressed notice of violation of Pitkin County Codes, Regulations or the requirements of any license issued under this Code shall be referred to either the Licensing Authority or the Pitkin County Attorney's Office and investigated, if appropriate. Upon investigation, if it is determined there are grounds to believe a violation may have occurred, a hearing on the violation will be presided over by the Pitkin County Hearing Officer for a determination of whether a violation has occurred. Upon the Hearing Officer's determination that a violation has occurred, the Board shall determine the appropriate action to be taken regarding the license. The consequence of a violation may be no action regarding the license, the suspension of the license for a set time, or the revocation of the license. If a violation is determined to have occurred, the costs of enforcement of this Code, including any hearings required, will be paid by the licensee. If the licensee disagrees with the determination of the Hearing Officer, an appeal must be requested within 5 business days of the determination and shall be heard by the Board at the same time as the imposition of a penalty regarding the license.

Any violation of this Code or licensing requirements will also be subject to a fine against the licensee of up to \$1,000.00 per occurrence. Each day a violation exists shall be considered a separate occurrence subject to a separate penalty. The imposition of a fine shall be governed by Article 15, Title 30 of the Revised Colorado Statutes. Determination of fines shall be done by the Pitkin County Court. Citations, summonses and complaints may be served by any law enforcement officer having jurisdiction within Pitkin County or any agent of the Licensing Authority. A penalty assessment procedure shall be established consistent with § 16-2-201, C.R.S. A graduated fine shall be imposed as part of the penalty assessment of \$100.00 for the first offense; \$500.00 dollars for the second offense and \$1000.00 dollars for all subsequent offenses during a license term. All fines and forfeitures for the violation of this Code shall be deposited with the County Treasurer.

In addition to the provisions of this Code, all other remedies in law or equity may likewise be pursued against the licensee, property owner(s) or principal resident at the discretion of the Board.

**§ 6.50 Enacted [Ord. 028-2022, 06-22-2022](#)**